

CHAPTER - 1

INTRODUCTION

LEARNING OBJECTIVES

After studying Chapter 1, you shall be able to understand:

- the concept of public finance
- the concept of taxation
- purposes of taxation
- canons of taxation
- classification of taxes
- characteristics of a good tax system
- role of taxes in economic development
- tax structure in Bangladesh

1.1 PUBLIC FINANCE

Public finance is a science that deals with the income and expenditure of public bodies and the government of a nation. The government of a country has to perform two types of functions namely obligatory functions (e.g. defense, maintenance of law and order situation etc.) and optional functions (e.g. providing various facilities to its citizens like infrastructure, health, environment etc.). To perform all these functions adequately and efficiently, government requires funds from the public which is the real beneficiary of the public expenditure. Government raises funds from the public in the form of taxes, fees, penalties, sale of goods and services and also by taking loans.

How and in what form the government should collect revenue and how it should spend it for the maximum benefit of the society is a matter to be decided by the government concerned taking the various political and economic considerations and the principles and theories of political science and economics into account. The science that deals with the income and expenditure of the government and the principles, problems and policies relating to these matters is known as public finance. A few definitions will support the view:

"Public finance is the study of the principles underlying the spending and raising of funds by public authorities." – Findlay Shirras

"Public finance is one of those subjects which lie on the border-line between economics and politics. It is concerned with the income and the expenditure of public authorities and with the adjustment of the one to the other." – Hugh Dalton

"Public finance deals with the provisions, custody and disbursement of resources needed for the conduct of public or governmental functions." – H. L. Lutz

There is hardly any fundamental difference in the central idea of the above definitions i.e., public finance relates to the income and expenditure of a government.

1.2 MEANING OF PUBLIC REVENUE

Governments need to perform various functions in the field of political, social & economic activities to maximize social and economic welfare. In order to perform these duties and functions government require large amount of resources. These resources are called Public Revenues. Public revenue deals with the question what are the sources of government revenue, i.e. how much amount government will earn from each earning source. Public revenue consists of taxes, revenue from administrative activities like fines, fees, gifts & grants.

1.3 SOURCES OF PUBLIC REVENUE

There are two major categories of public revenue – Tax revenue and Non tax revenue.

⇒ **Tax Revenue:** Taxes are the first and foremost sources of public revenue. Taxes are compulsory payments to government without expecting direct benefit or return by the tax payer. Taxes collected by Government are used to provide common benefits to all mostly in form of public welfare services. Taxes do not guarantee any direct benefit for person who pays the tax. It is not based on direct quid pro quo principle. Tax revenue is generated from taxes on income, profits and capital gains, taxes on goods and services which include value added tax (VAT) and excise duty and taxes on permission to use goods or to perform certain activities. This is the major source of public revenue. The government collects tax revenue by way of direct & indirect taxes. Direct taxes includes; Corporate tax; personal income tax capital gain tax, gift tax and wealth tax. Indirect taxes includes custom duty, excise duty, VAT and service tax etc.

⇒ **Non-Tax Revenue:** Non-tax revenue is the revenue obtained by the government from sources other than tax. The major sources of non-tax revenue are:

- a) **Fees:** Fees are another important source of revenue for the government. A fee is charged by public authorities for rendering a service to the citizens. Unlike tax, there is no compulsion involved in case of fees. The government provides certain services and charges certain fees for them. For example, fees are charged for issuing of passports, driving licenses, etc.
- b) **Fines or Penalties:** Fines or penalties are imposed as a form of punishment for breach of law or non fulfillment or certain conditions or for failure to observe some regulations. Like taxes, fines are compulsory payments without quid pro quo. But while taxes are generally imposed to collect revenue. Fines are imposed as a form of punishment or to prevent people from breaking the law. They are not expected to be a major source of revenue to the government.
- c) **Surplus from Public Enterprises:** The Government also gets revenue by way of surplus from public enterprises. In Bangladesh, the Government has set up several public sector enterprises to provide public goods and services. Some of the public sector enterprises do make a good amount of profits. The profits or dividends which the government gets can be utilized for public expenditure. There is some sort of quid-pro-quo in the case of surplus from public enterprises. This is because, the public gets goods and services, and the government gets prices, and consequently profits from selling such goods and services.
- d) **Special assessment of betterment levy:** It is a kind of special charge levied on certain members of the community who are beneficiaries of certain government activities or public projects. For example, due to a public park in a locality or due to the

construction of a road, people in that locality may experience an appreciation in the value of their property or land. Thus, due to public expenditure, some people may experience 'unearned increments' in their asset holding. Betterment levy is like a tax because it is a compulsory payment, but unlike a tax, in case of betterment levy there is some element of quid pro quo.

- e) **Grants and Gifts:** Gifts are Voluntary contributions by individuals or institutions to the government. Gifts are significant source of revenue during war and emergency. A grant from one government to another is an important source of revenue in the modern days. The government at the Centre provides grants to State governments and the State governments provide grants to the local government to carry out their functions. Grants from foreign countries are known as Foreign Aid. Developing countries receive military aid, food aid, technological aid, etc. from developed countries.
- f) **Deficit Financing:** Deficit means an excess of public expenditure over public revenue. This excess may be met by borrowings from the market, from abroad, or by the central bank creating currency. In case of borrowing from abroad, there cannot be compulsion for the lenders, but in case of internal borrowings there may be compulsion. The government may force various individuals, firms and institutions to lend to it at a much lower rate than the market offered rate.

1.4 PUBLIC FINANCE VS. PRIVATE FINANCE

The basic principles of public finance and private finance are same. Individuals and States are similar in that both need resources. Both have to secure maximum results from their resources. Both attempt to get the best out of all items of expenditure. There are, however, some important points of difference between private and public finance. They are –

1. **Adjustment of Income to Expenditure.** An individual adjusts his expenditure to his income. He is advised to cut his coat according to his cloth. But a State first fixes the size of its expenditure - and then proceeds to raise the necessary revenues. Thus, it has to adjust income to expenditure. Expenditure is determined first and the revenues are then raised accordingly.
2. **Period of Time.** For an individual, there is no definite period over which the accounts must be balanced. State tries to balance its budget in the course of year.
3. **Private Finance is shrouded in Mystery.** No individual will permit his neighbor or friends to get any idea as to how he stands financially. But there is no such mystery in Government finance.
4. **In the case of an individual, there can be no internal borrowing;** it has always to be an external loan. But the government can borrow both internally from its own people and externally from foreign governments and from foreign people.
5. **An individual has to earn his income,** whereas the State gets most of its income from other peoples' income. No doubt sometimes the States also run productive enterprises and get income on their own account.
6. **The State can issue paper currency in order to meet its expenditure.** But no such course is open to a private individual.
7. **No Equi-marginalizing of utilities.** An individual tries to maximize satisfaction from his income by distributing his expenditure in such a manner as to have equi-marginal utility in every case. But State expenditure is done by the Finance Department in an objective manner, not by equi-marginalizing of utilities.

8. **Surplus budgeting is a virtue for an individual but need not be so for the State.** A sensible individual must use less than his income. He ought to have a superfluous financial plan. For an individual, this is considered a virtue. However for a nation it need not be so.

1.5 IMPORTANCE OF PUBLIC FINANCE

The role of public finance is very crucial for a modern government as every government ensures "Social Welfare" to its citizens and therefore, the scope of governmental activities has been increasing day by day. Modern government do not only confine themselves to law and order situation but they also actively intervene in economic matters to justify themselves as, 'Welfare States'. The governments require money to spend it on welfare of citizens. Hence, the importance of public finance has increased greatly in recent years. The importance of public finance can be justified on the following grounds-

1. **Protection to infant industries:** The government of an underdeveloped country protects its infant industries against foreign competition through various public finance activities like imposition of heavy tariff duties on imports, putting restrictions on imports, giving subsidies to keep the cost low etc.
2. **Planned Economic Development:** Public finance renders valuable help in the planned economic development of a country. The planning authorities fix the priorities of expenditure for the plan period and raise the necessary funds to implement the plans through various fiscal measures.
3. **Regulating Consumption Habits:** Public finance regulates the consumption habits of the people. It imposes taxes on items of consumption, the use of which is to be discouraged such as wine, cigarettes etc. and allows concessions and rebates in taxes if it likes to encourage the consumption of any commodity.
4. **Reducing Inequalities:** Public finance also plays a vital role in reducing social inequalities, through its fiscal policies. The Government can levy heavy taxes on the richer sections of the society and spend the incomes so received on providing various facilities to poor sections of the society such as providing free medical facilities, education, cheap housing, cheap rations through fair price shops etc.
5. **Maintaining Balance of Trade:** The government always restricts the imports only to the essential items hence imports of non-essential items are taxed heavily and encourages the exports of its surplus production. It reduces the tax burden on export items and also supports them with subsidies and grants. These operations help the government to maintain the balance of trade.
6. **Industrial Development:** Public finance helps industrial development as –
 - (i) Government grants subsidies and grants to various industries these days to enable them to increase the production of different items.
 - (ii) Public finance induces the investment during the time of recession through its taxation policies by allowing rebates and other fiscal advantages for investments in desired direction.
 - (iii) The role of public finance in under-developed countries is to bring economic stability to keep the level of consumption and investment quite up to the level of production. It requires continuous trimming of the investment process to keep the productive process in the same speed.

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- (iv) To strengthen the economic development in developing countries, it is essential to give highest priority to capital formation. Therefore, there must be policies to encourage savings by cutting peoples' wasteful expenditure.
- (v) Industrial development of a country will bring in more employment opportunities to people especially in under-developed countries.
- (vi) Managing public money more effectively the government may ensure sufficient power, skilled manpower, infrastructure etc. for the businessmen which may generate positive growth in the economy.

Thus, it is evident that the government of a country can push up the industrial and economic development of the country, provide more employment opportunities, encourage investments and savings in the desired direction and increase social benefits through public expenditure. However, it can have an influential check over infructuous economic and social activities, mitigate the inflationary and deflationary trends in the economy, regulates the consumption and production of unwanted items, and can regulate the flow of imports to protect its own industries and so on, which affects the overall economic and social system of the country.

1.6 DEFINITION OF TAX

The term 'tax' has been derived from the French word 'taxe' and etymologically, the Latin word 'taxare' is related to the term 'tax', which means 'to charge'. Tax is a contribution exacted by the state. It is a non-penal but compulsory and unrequited transfer of resources from the private to the public sector, levied on the basis of predetermined criteria. According to Article 152(1) of the Constitution of Bangladesh, taxation includes the imposition of any tax, rate, duty or impost, whether general, local or special, and tax shall be construed accordingly. Taxes are the most important source of revenue of the modern governments. It is a compulsory levy, to be paid by the citizens who are liable to pay it, imposed by the government. Many economists like Seligman, Adam Smith, Bastable, Taussig and Dalton hold the unanimous opinion that tax is a compulsory payment to the government by taxpayer without any expectation of some specified return. But essence of the argument is this that the taxpayer, is not entitled to claim return of his taxes though he may receive benefits of the services which the State provides by means of the taxes collected from him and many other like him. The followings are the various definitions of tax given by different economists:

"'tax' means the income tax payable under the ordinance and includes any additional tax, excess profit tax, penalty, interest, fees or other charges leviable or payable under this ordinance" – Section 2(62) of the ITO 1984

"A tax is purely and simply a contribution, whether direct or masked which the public authorities impose upon the inhabitants or goods for the purpose of defraying government expenditure." – Leroy Beaulieu

"A tax is a compulsory contribution imposed by a public authority irrespective of the exact amount of service rendered to the tax payer in return and not imposed as penalty for any legal offense." – Dalton

"Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer." – P. E. Taylor

The above definitions make it clear that taxes are compulsory contribution by the taxpayer to the government.

1.7 CHARACTERISTICS OF TAX

The characteristics of a tax may be studied under the following heads:

1. Tax is a payment to the Government by the people as it is levied by the government as per the Section 83 of the Constitution of Bangladesh.
2. Payment of taxes is non-penal and compulsory; hence refusal to pay a tax is a punishable offence.
3. An element of sacrifice is there in the payment of a tax as they pay the taxes in order to ensure public interest.
4. The aim of tax collection is to finance the government expenditure to ensure public interest and welfare.
5. Tax is not the cost of the benefit conferred by the government on the public. The benefit received from the country is not directly the return of tax.
6. It is one of the prime sources of revenue for the government.
7. Tax is not any fine or penalty.
8. Tax can only be imposed by the government of a country.

1.8 PURPOSES OR OBJECTIVES OF TAXATION

Taxation is a major source of revenue for the government. In order to accelerate economic development as well as to ensure the defense, administration, social welfare and other development activities government needs huge amount of resources. Taxation is a way to transfer the resources from private or non-government sectors to government sectors. The main purposes or objectives of tax are enumerated below:

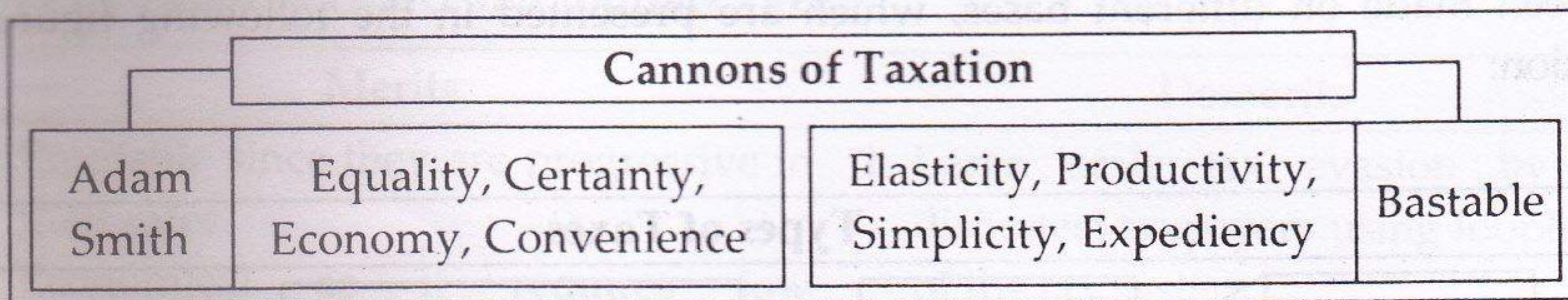
1. **Revenue collection:** Tax is a major source of revenue for the government. In Bangladesh tax revenue accounts for nearly 80 percent of the total government revenue. Therefore, the first and foremost aim of taxes is to raise public revenue to meet the over increasing public expenditure.
2. **Reduction of inequalities in income and wealth:** One of the main objectives of taxation is to reduce inequalities in income and wealth. This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax, wealth tax, expenditure tax etc.
3. **Accelerating economic growth:** In order to ensure the economic growth, the tax system must be so designed as to raise the rates of savings and investments. This savings may be invested in productive sectors of the country.
4. **Control of consumption:** The government not only raises revenue through taxation but it also imposes restriction on the use of certain goods and services in a way desirable and respectable for a healthy state of the society. Taxes on intoxicant, tobacco etc. raise public revenue no less than other taxes but their main aim is to prevent the deterioration of health of general public. More tax is also levied on luxury goods to reduce their use.
5. **Protection of local industries:** In order to protect the local industries from the uneven competition government may provide tax incentives for poor local industries and so, should design the tax policy to ensure the protection of poor local industries.

6. **Economic development:** The tax revenue can be used by the government to ensure the economic development of the country. It can be used to build the infrastructure, to invest in social security programs, in various poverty elevation programs. Government can invest in productive sectors and can reduce unemployment.

So, it can be said that the purpose of tax is not only the collection of revenue, but also to ensure the economic development and social welfare of the country. But it is only possible when the country designs the tax policy in an effective and efficient manner.

1.9 CANONS OF TAXATION

Canons of taxation refer to the administrative aspects of a tax. They relate to the rate, amount, method of levy and collection of a tax. In other words, the characteristics or qualities which a good tax should possess are generally described as canons of taxation. According to Adam Smith, there are four canons or maxims of taxation which are still recognized as classic and there are some other canons referred by other economists some of which are explained below:



1. **Canon of Equality:** The canon of equality implies that the burden of taxation must be distributed equally or equitably in relation to the ability of the tax payers. Equity or social justice demands that the rich people should bear a heavier burden of tax and the poor a lesser burden.
2. **Canon of Certainty:** The canon suggests that the tax which an individual has to pay, should be certain and not arbitrary. The tax payer should be well informed as to the time, amount and the method of the payment of tax.
3. **Canon of Economy:** Every tax ought to be so contributed as both to take out and to keep out of pockets of the people as little as possible, over and above what it brings into the public treasury of the State.
4. **Canon of Convenience:** Every tax ought to be levied at the time or in the manner in which it is most likely to be convenient for the contributor to pay it.
5. **Canon of Productivity / Adequacy:** The State should be able to function with the revenue raised from the people by means of taxes which should adequately cover the government expenditure and cannot be forced to resort to deficit financing.
6. **Canon of Simplicity:** This norm suggests that tax rates and tax systems ought to be simple, plain and intelligible to the common understanding.
7. **Canon of Elasticity:** The tax system should be flexible so that it is possible for the authority to revise the rates and system with the least in convenience in order to increase or decrease the revenue.
8. **Canon of Diversity:** A tax system should not be based on a single tax or only a few taxes. There should be a large variety of taxes so that all the citizens, who can afford to contribute to the State revenue, should be made to do so. There should be a wide admixture of direct and indirect taxes.
9. **Canon of Expediency:** A tax should be determined on the ground of economic, social and political expediency.

10. **Canon of Functional Efficiency:** A tax policy and system of a country should be effective and efficient so that it can generate sufficient revenue for the government in order to ensure the economic development of the country. The system should be able to reduce the harassment and tax avoidance.

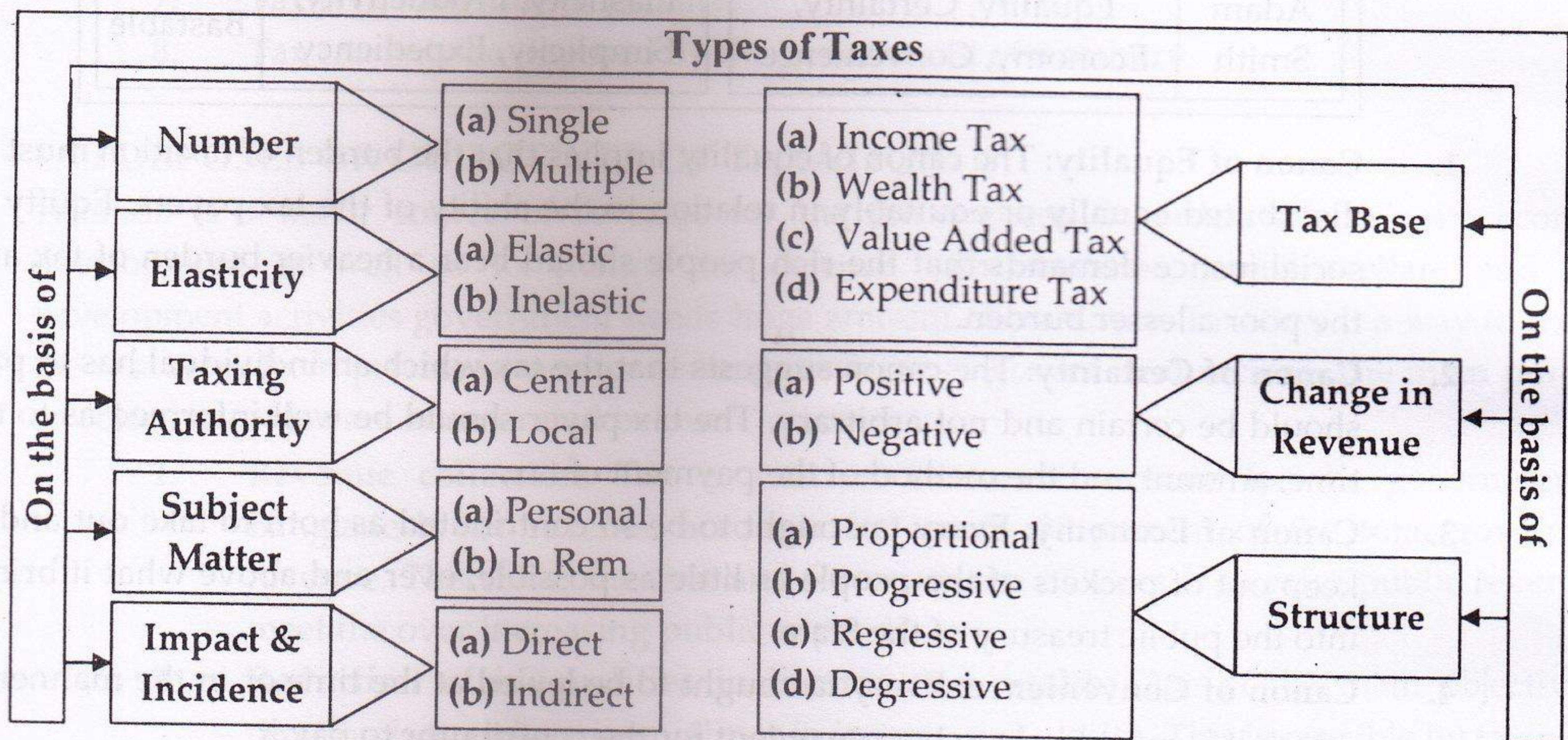
A tax system with the above canons will be able to generate sufficient revenue and fulfill the objectives and purposes of taxation.

SELF REVIEW 1 - 1

- (a) Define tax as per the Income Tax Ordinance, 1984.
 (b) State the canons of taxation as specified by Adam Smith.

1.10 CLASSIFICATION OF TAXES

Taxes have been differently classified by different economists in course of time. The classifications have been made on different bases, which are presented in the following figure followed by discussion:



A. Classification on the basis of number of taxes:

- i) **Single tax:** When the tax system of a country incorporates only one tax, it is called single tax. In ancient times tax was levied on person as poll tax or head tax.
- ii) **Multiple tax:** When the tax system comprises different types of taxes, it is called multiple tax. At present, all the countries in the world follow multiple tax system.

B. Classification on the basis of impact and incidence of tax:

- i) **Direct tax:** Direct taxes are those taxes which are paid entirely by those persons on whom they are imposed. The burden cannot be shifted to others in case of direct tax. Such as, income tax, land revenue tax etc.
- ii) **Indirect tax:** Indirect taxes are those taxes which are imposed on sales or purchase of any goods or services other than personal services. Here the burden is ultimately shifted to others. Such as, VAT, customs duty etc.

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Basis of Differences between Indirect and Direct taxes:

Basis	Indirect Tax	Direct Tax
Taxable Event	Purchase / Sale / Manufacture of goods and provision of services.	Taxable Income / Taxable Wealth of the Assessee.
Levy & Collection	Levied & collected from the consumer but paid / deposited to the govt. by the Assessee / Dealer.	Levied and collected from the Assessee.
Shifting of Burden Collected	Tax burden is shifted to the subsequent /ultimate user. At the time of sale of purchases or rendering of services	Directly borne by the Assessee. Hence, cannot be shifted. After the income for a year is earned or valuation of assets is done on the valuation date.

Merits and Demerits of Direct and Indirect Taxes:

Tax	Merits	Demerits
DIRECT	<ol style="list-style-type: none"> Equitable since they are progressive in their rates. Economical as it requires low administrative collection cost Elastic since they can be adjusted as per the needs of the State. Certain as the rate, amount and time regarding tax collection is known to both tax payer and tax authority. It is based on tax payers' ability that ensures distributive justice. It creates civic consciousness among the taxpayers. No scope for any leakage as it is directly paid to the treasury. 	<ol style="list-style-type: none"> Large scale tax evasion by the dishonest taxpayers using loopholes of the tax system Since the burden cannot be shifted, they are unpopular. Direct taxes are found to be arbitrary to determine the degree of progression in taxation. Since the taxpayers need to follow certain complex steps like filing returns, it is inconvenient. Collection is not satisfactory if the system is not strong enough.
INDIRECT	<ol style="list-style-type: none"> They are very convenient to pay since taxes are included in price. They are generally difficult to be evaded as they are included in the price of the goods. Highly revenue productive in a developing country since income level of the average people is low. By taxing luxury goods heavily equitability can be ensured. Can be used to control the consumption of luxury, liquor and harmful goods by imposing high taxes. 	<ol style="list-style-type: none"> They are inequitable since same rates are applied for both poor and rich. They are uneconomical since the collection of these taxes involves many stages and thus the cost of collection becomes greater. Indirect taxes give chance for cheating as the retailers may charge the customers more than the specific amount. It is a cause of inflation since it increases the cost of production

C. Classification on the basis of structure of tax rate:

i) **Proportional Tax:** A proportional tax is one in which, whatever the size of income, the rates of taxation remains constant. Here the same percentage is charged on all taxpayers. For example, tax on Tk. 100,000 is 10% and Tk. 500,000 is also 10%. In the former case tax becomes Tk. 10,000 and in the later Tk. 50,000. Here in absolute form, tax has increased in proportion to rate of increase of income.

Merits:

- ❖ It is very easy and simple to calculate.
- ❖ It does not affect the existing pattern of distribution of income and wealth in the society as the tax rate is same for all.

Demerits:

- ❖ It is not based on the principle of equity. The burden of tax falls more heavily on the poorer section of the society.
- ❖ Under this system, principle of taxable capacity is totally ignored.
- ❖ Does not reduce the present inequalities of income and wealth in the society.

ii) **Progressive Tax:** Under this system, the rate of taxation increases as the taxable income increases. The principle of a progressive tax is “higher the income, higher the rate”. It is considered more equitable. For example, tax on total income of Tk. 100,000 is 10% but on Tk. 500,000 is 15%. Here tax will increase more than proportionately.

Merits:

- ❖ Under this system, ‘income’ and ‘ability to pay’ are positively correlated.
- ❖ Moral as the richer section bears heavier burden of tax than the poorer section.
- ❖ It promotes equality in wealth and income distribution as ‘more income, more taxes’ is the principle of this tax system.
- ❖ The system is more flexible. During crisis. More taxes can be collected by adjusting the tax rates suitably.
- ❖ It is economical in the sense that with minor changes in the rates, substantial changes can be brought about in tax collection without incurring any extra cost.

Demerits:

- ❖ Arbitrary fixation of rates may be done in an indiscriminate manner when government needs more funds at a time of crisis.
- ❖ It adversely affects the propensity to save because the burden of tax falls more on those sections of society which can save because they have surplus.
- ❖ It dims the chances of more investments in productive sectors through reducing the savings.
- ❖ Tax evasion may be increased as it injects a feeling of tax evasion in the minds of those who are liable to pay tax at higher rates.
- ❖ Progressive tax system discourages the productive activities in the country because the producer is not interested to earn more. They also find it difficult to get funds at cheaper rates because the rates of savings go down.

iii) **Regressive Tax:** A tax is regressive when its burden falls more heavily on the poor than the rich since the tax rate decreases as the tax base (income) increases. This is just the opposite of progressive tax. Sales tax is a regressive tax. If two individuals spend the same amount on a given product, they'll both pay the same sales tax,

regardless of whether one earns more than the other one. For another example, tax on total income of Tk. 100,000 is 15% but on Tk. 500,000 is 10%. Here tax will decrease more than proportionately.

Merits:

- ❖ Regressive taxes encourage savings and investment as high-income earners pay less tax and have more discretionary funds to use for investment and savings.
- ❖ Regressive taxes increase net government revenue. As people have more after-tax income to use for savings and investment, these additional investments in turn generate more taxable income and the cycle begins again - more investment, more wealth, and ultimately more tax revenues.
- ❖ Regressive tax systems encourage people to earn more income because the more you make, the more you get to keep. This incentive will produce more investment, savings, job growth, and national GDP.

Demerits:

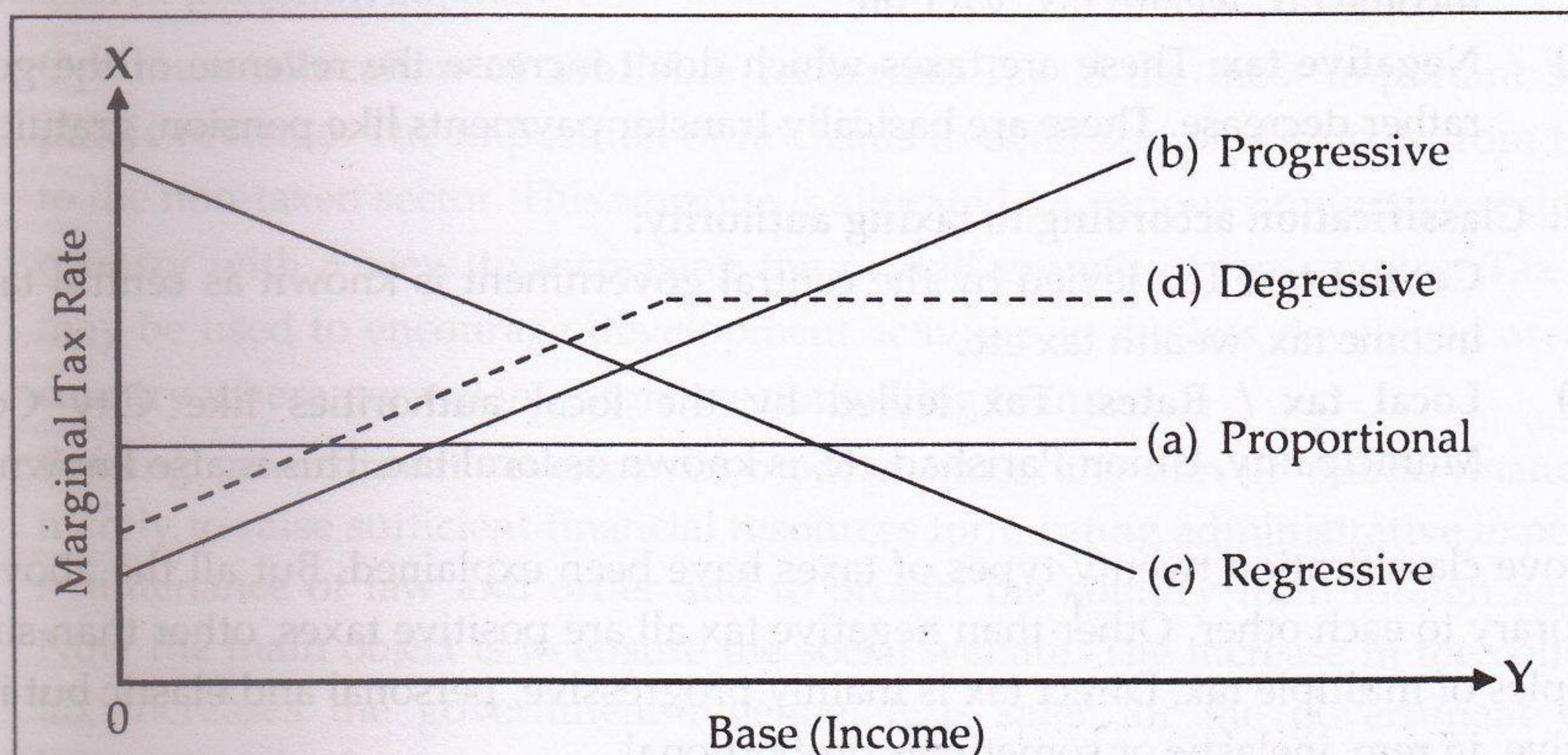
- ❖ It doesn't follow the ability to pay principle.
- ❖ Under this system, principle of taxable capacity is totally ignored.
- ❖ This system increases inequalities of income and wealth in the society.

iv) **Degressive tax:** Taxes which are mildly progressive, hence not very steep so that high income do not make a due sacrifice, such taxes on the basis of equity are called degressive. In degressive taxation, a tax may be slowly progressive up to a certain limit, after that it may be charged at a flat rate. In Bangladesh, this system is followed. The tax rate for the assessment year 2017-18 is:

Total income slab		Tax rate
On first	Tk. 250,000	Nil
On next	Tk. 400,000	10%
On next	Tk. 500,000	15%
On next	Tk. 600,000	20%
On next	Tk. 30,00,000	25%
On next	balance	30%

The *merits* and *demerits* of this tax system are similar to the progressive tax system.

These four categories of taxes are graphically presented below:



Bangladesh Income Tax – Theory and Practice

Above figure depicts the proportion of income taken away in taxation under different tax rates. Tax line a represents a progressive tax rate, tax line b represents a proportional tax rate, tax line c shows a regressive tax rate and tax line d denotes a digressive tax rate.

The proportional tax rate has a constant slope, graphically, while the progressive tax rate has a rising positive slope. The steeper the slope of the tax line, the progressive the tax regime. The regressive tax rate line has a declining negative slope. The steeper the negative slope of the tax line, the more regressive the taxation. The digressive tax rate line has a rising slope initially, but it becomes constant after a point.

D. Classification on the basis of subject matter of taxation:

- i) **Personal tax:** This tax is levied on the basis of the personal tax paying capability. Such as, income tax.
- ii) **In Rem tax:** This tax is levied on activities or objects like sales tax, wealth tax etc.

E. Classification on the basis of elasticity of tax:

- i) **Elastic tax:** If the rate of changes in tax is more than the rate of changes in the tax base, the tax is known as elastic tax.
- ii) **Inelastic tax:** If the rate of changes in tax is less than the rate of changes in the tax base, the tax is known as inelastic tax.

F. Classification on the basis of tax base:

- i) **Income tax:** It is a tax which is charged on the basis of the income of a person or entity. Such as, income tax.
- ii) **Wealth tax:** Here tax is charged on the basis of the value of the financial asset like shares, securities etc. or non financial asset like building, premises, land etc. Such as, wealth tax, gift tax etc.
- iii) **Value Added Tax:** Here tax is charged on the basis of the value addition in a commodity or service.
- iv) **Expenditure tax:** Here tax is charged on the basis of the expenditure like purchase tax, sales tax etc.

G. Classification according to change in government revenue: [Musgrave and Musgrave, 1989, pp 216 – 217]

- i) **Positive tax:** These are taxes which increase the revenue of the government. Such as, income tax, wealth tax, VAT etc.
- ii) **Negative tax:** These are taxes which don't increase the revenue of the government, rather decrease. These are basically transfer payments like pension, gratuity etc.

H. Classification according to taxing authority:

- i) **Central tax:** Tax levied by the central government is known as central tax. Such as, income tax, wealth tax etc.
- ii) **Local tax / Rates:** Tax levied by the local authorities like City Corporation, Municipality, Union Parishad etc. is known as local tax. This is also known as rates.

In the above classification twenty types of taxes have been explained. But all the above taxes are contemporary to each other. Other than negative tax all are positive taxes, other than single tax all are examples of multiple tax. Direct tax is mainly progressive, personal and elastic but indirect tax is regressive, in rem, inelastic or sometimes proportional.

1.11 CHARACTERISTICS OF A GOOD TAX SYSTEM

Tax has a very important role in the economic development of a country. As a major source of government revenue, tax ensures the availability of resources for the various development programs undertaken by the government. In order to be treated as a good tax system, it should be featured with following characteristics:

1. Tax should be levied on the basis of fundamental principles of taxation like the principle of least sacrifice, cost and benefit and above all ability to pay.
2. The taxes should be so imposed that they are equitable, convenient to pay, economical, certain, productive and elastic i.e. they should follow the most important canons.
3. Tax system should be balanced containing both direct and indirect nature of taxes so that it can maximize government revenue.
4. The tax authority should be supported by sufficient simple laws and rules, skilled manpower and efficient administrative tools and techniques.
5. Tax system should have positive effect on both production and distribution without causing any adverse effect upon ability and willingness to work, save and invest.
6. The tax system should be so framed as to ensure that the productive resources of the economy are optimally allocated and utilized. For this purpose, it is essential that the tax system should be economically neutral.
7. A good tax system has least collection cost to collect maximum amount of taxes.
8. The tax system of a country must be so devised as to leave no scope for the evasion of tax by the tax payer.

Above all, the tax system should conform to the principle of maximum social advantage so that the society as a whole is benefited to the maximum effect possible. Maximizing social advantage or least aggregate sacrifice is not the task of one tax, but it is from the combination of all the taxes.

1.12 ROLE OF TAX IN THE ECONOMIC DEVELOPMENT OF A COUNTRY

The classical economists were in view that the only objective of taxation was to raise government revenue. But with the changes in circumstances and ideologies, the aim of taxes has also been changed. These days apart from the object of raising the public revenue, taxes are levied to affect consumption, production and distribution with a view to ensuring the social welfare through the economic development of a country. For economic development of a country, tax can be used as an important tool in the following manner:

1. **Optimum allocation of available resources:** Tax is the most important source of public revenue. The imposition of tax leads to diversion of resources from the taxed to the non-taxed sector. This revenue is allocated on various productive sectors in the country with a view to increasing the overall growth of the country. Tax revenue may be used to encourage development activities in the less developed areas of the country where normal investors are not willing to invest.
2. **Raising government revenue:** In modern times, the aim of public finance is not merely to raise sufficient financial resources for meeting administrative expenses, for maintenance of law and order and to protect the country from foreign aggression. Now the main object is to ensure the social welfare. The increase in the collection of tax increases the government revenue. It is safer for the government to avoid borrowings by increasing tax revenue.

3. **Encouraging savings and investment:** Since developing countries like Bangladesh has a mixed economy, care has also to be taken to promote capital formation and investment both in the private and public sectors. Taxation policy is to be directed to raising the ratio of savings to national income.
4. **Reduction of inequalities in Income and wealth:** Through reducing inequalities in income and wealth by using an efficient tax system, government can encourage people to save and invest in productive sectors.
5. **Accelerating Economic growth:** Tax policy may be used to handle critical economic situations like depression and inflation. In depression, tax policy is set to increase the consumption and reduce the savings to increase the aggregate demand and vice versa. Thus it may be used to strengthen incentives to savings and investment.
6. **Price stability:** In under-developed countries, there is another role to maintain price stability to ensure growth with stability.
7. **Control mechanism:** Tax policy is also used as a control mechanism to check inflation, consumption of liquor and luxury goods and to protect the local poor industries from the uneven competition. Taxation is the only effective weapon by which private consumption can be curbed and thus resources transferred to the State. Thus, the economy can ensure sustainable development.

Thus, it can be said that the economic development of a country mainly depends on the presence of an effective and efficient taxation policy.

SELF REVIEW 1 - 2

- (a) Define Progressive Tax.
- (b) Identify three features of a good tax system.

1.13 IMPACT, INCIDENCE AND EFFECT OF A TAX

Taxes impose a burden on the taxpayer because he sacrifices something. This burden does not always lie on the shoulders of a person from whom it is collected. In many cases, the burden is shifted to some other person who ultimately pays the tax. In the study of taxation, it is necessary to know who bears the ultimate burden of tax. This classification of burdens led to the conceptions of impact, shifting and incidence of taxes. These three concepts are:

1.13.1 Tax Impact: The impact of tax is the immediate money burden i.e. where tax falls on the person who pays the tax in the first instance (i.e., who has legal responsibility to pay). The impact of a tax is on the person on whom the tax is imposed. The man, who pays the tax to the government, bears its impact. For example, an income tax is levied on the net income / profit of a company who is legally bound to pay it to the government.

1.13.2 Tax Incidence: On the other hand, incidence of tax means the final money burden of a tax i.e. ultimate resting point of tax (i.e., who ultimately pay it whether it may or may not be levied on him). The incidence of tax is on the person who cannot shift it to anybody else. For example, the incidence of customs duty / value added tax is on the consumer as he will ultimately pay tax with the acquisition price.

1.13.3 Effect of a Tax: When a tax is imposed and collected, it involves certain responses from taxpayers and the economy. Such responses can be of great variety and can

profoundly influence the working of the economy in terms of production, growth, savings, investment, choice of techniques of production, regional imbalances, inequalities of income and wealth, and so on. These responses and their results are collectively called the *effects of that tax*. These effects can be the result of the fact of tax imposition itself and they could also follow from the process of shifting its incidence. Effects of a tax can be both beneficial and harmful. Harmful effects of a tax will be referred to as the *burden of that tax*.

1.13.4 Burden of a Tax

- ❖ **Money burden/formal incidence:** It is the reduction in the disposable income of the taxpayers. This can be of two types:
 - ⊕ **Direct money burden** – amount of tax being paid by the taxpayers to the tax authorities.
 - ⊕ **Indirect money burden** – additional money expenses incurred by the taxpayers for tax payment
- ❖ **Real Burden:** It is the loss of welfare to the taxpayers and the community as a whole, in terms of increasing unemployment, reduced production, etc. This can be of two types:
 - ⊕ **Direct real burden** – sacrifice of the welfare which the tax itself imposes upon the taxpayers, but not as net of the benefits, if any
 - ⊕ **Indirect money burden** – indirect loss of welfare which results from interference with consumer choice, changes in factor supply and hence total output, and changes in employment through changes in aggregate demand

1.13.5 Distinction between Impact and Incidence of Tax: A distinction can be made between the impact and incidence of a tax on the following grounds-

1. Impact refers to the initial burden of a tax whereas incidence refers to the ultimate burden of tax.
2. Impact of tax falls on the person who initially bears it and pays to the government while the incidence of tax falls on the person who ultimately bears it and who cannot pass it on to some other person.
3. The incidence of tax cannot be shifted whereas the impact of tax can be shifted.

Generally, the impact and the incidence of a direct tax are on the same person because it is ultimately paid by a person on whom it is initially levied whereas the impact and incidence of an indirect tax are on different persons because it can be easily shifted to some other person who ultimately pays it.

1.13.6 Distinction between Incidence of Tax and Effect of a Tax: A distinction can be made between the incidence and effect of a tax on the following grounds-

1. A tax reduces the income of the person on whom the incidence rests, while the effect of the tax is the pressure or influence of the incidence (such as forced reduction of consumption and investment for disposable income reduced by tax incidence).
2. Tax incidence is direct money burden and tax effect is the indirect money burden.
3. The effects of a tax can be the result of the fact of tax imposition itself (impact) and they could also follow from the process of shifting its incidence.

1.13.7 Tax Shifting: Last but not the least, the process of transferring the direct money burden of a tax to another person is known as the shifting of tax i.e. if incidence differs from impact, tax is said to have been shifted. In the above example, the customs duty /

value added tax paid by the manufacturer, may be added to its cost and the price of the product will be increased by the amount of tax and thereby shifts the burden to the consumer. This process of passing on the burden is called shifting of a tax. Shifting of tax incidence is done through the means of a price variation. Tax shifting may be-

- (a) **Single point shifting vs. multi-point shifting** – When a trader shifts his tax burden direct to the consumer, it is known as single point shifting because a consumer cannot shift his tax burden. On the other hand, when the tax burden is shifted to the consumer through different points, it is known as multi-point shifting. For example, the VAT on a commodity is multiple points shifting because it is levied and first paid by the importer but, later on, the importer shifts the burden on to the wholesalers, who in turn shifts it on to retailers and retailers finally to consumer.
- (b) **Forward vs. Backward Shifting** – If a tax incidence is shifted through a sales transaction, it is called **forward shifting**. For example, an excise duty imposed on a producer may be shifted to a consumer, or a value added tax (VAT) imposed on a seller may be shifted to a buyer. In case of multi-stage forward shifting of tax incidence, a tax incidence shifted from a seller to an intermediate purchaser who will also shift it to another buyer and so on until the tax finally settles on the ultimate purchaser or consumer, it may be called that the tax is being shifted onward. On the other hand, if a tax incidence is shifted through a purchase transaction, it is called **backward shifting**. If a VAT imposed on a consumer and he can shift it to the producer, or a VAT imposed on a buyer and he can shift it to the seller, then it will be backward shifting. Backward shifting may be through **tax capitalization**, when a tax affects the capital value of assets. If a tax changes the expected yield of an asset, then it will also change its market price. In other words, the tax has been capitalized. Say, a durable good is subject to a periodic tax (e.g., equivalent to previous annual license fee on TV) and an equivalent of the future tax payments is found in terms of the present value (PV) of the periodic tax discounted on the basis of interest rate. If the purchase price of the durable item is reduced by a part or full amount of this PV by the purchaser, then it is called tax capitalization.

1.13.8 Theories of Tax Shifting:

- ❖ **Concentration Theory:** This approach maintains that there is an inherent tendency for the taxes to be absorbed by certain income classes (e.g., tax on wage or tax on land income only).
- ❖ **Diffusion Theory:** This theory asserted that all taxes are diffused among the members of a community. Because of the constant interaction of sales/purchase transactions, eventually it becomes impossible to trace the final incidence of any tax and in reality all taxes get “diffused” in the economic system.
- ❖ **Demand and Supply Theory:** According to this theory, a tax can be shifted only through a shift in the demand and/or supply curves and the sharing of the incidence will be determined by the demand and supply elasticity.

1.13.9 Demand and Supply Theory of Tax Shifting: Important conditions which influence and modify the principles of tax shifting which have just been considered are the elasticity of supply and demand. A supply may be said to be elastic when a small change in price would cause a perceptible change in the amount of goods produced. If a large part of a supply of goods were produced at practically a uniform cost, and this were near the selling

price, it would be impossible for producers to bear an appreciable tax burden without greatly curtailing the amount of goods produced. If the tax could not be successfully shifted under such conditions, the amount of goods produced would be materially lessened. If there were a substantial margin between cost and selling price, however, the tax might be borne by the producer, for this would create a condition of inelastic supply.

- ❖ **Elasticity of Demand** – Of no less importance is the elasticity of demand. The condition of elastic demand exists when a small change in price will cause a perceptible change in demand. The greater the degree of elasticity the more difficult it is to shift a tax. The addition of even a small tax to the current price, when the demand is very elastic, will cause a perceptible falling off in the demand for the product. Some consumers may find substitutes, while others may forgo the use of the particular utility. The less the degree of elasticity in demand, however, the easier a tax may be shifted to the consumer. If the product be a necessity for which there is no substitute, then a tax, to almost any extent, might be added to the price, and the consumer would bear it. Effect of such shifting, however, may not stop here. The consumer, because of the high prices, may materially lessen his consumption of other goods. This decreased demand will cause a lowering in their price. Burden of such tax then is noticed in other lines of production, for these producers must either curtail production or accept a lower price for their product.
- ❖ **Direction of Shifting** – The relative elasticity of supply and demand has an important influence in determining the direction which the shifting of a tax may take. So far the suggestion has been that taxes are shifted only toward the consumer. This is necessarily true only when the tax is levied upon the first stage of a productive process, and not when it is levied on any of the intermediate stages. Suppose the processes in production are manufacturer, wholesaler, jobber, and retailer, and that a tax is placed upon the wholesaler. He wishes to shift this, and may do it by raising his price to the jobber, who will recoup himself by exacting more from the retailer, who in turn will increase the price to the consumer. He may shift the tax, on the other hand, back to the manufacturer, in refusing to pay as high a price as previously for the product. He would pursue the first course if the manufacturer were already selling at near the cost of production while the demand for the product was comparatively inelastic. If there were a wide margin between the manufacturer's cost and his selling price, while the demand was elastic, he would pursue the second course. When a tax is levied on some intermediate stage of production, then, its shifting will likely take the direction of greatest inelasticity.

1.13.10 Factors Influencing Tax Shifting:

As we have already discussed in the Demand and Supply theory of Tax Shifting, the following two factors are mainly behind any kind of shifting in tax:

⇒ Elasticity of supply ⇒ Elasticity of demand

Additional Factors Influencing Tax Shifting:

- ❖ Type of tax – transaction tax easier to shift.
- ❖ Price being fixed and accepted as normal – difficult to shift through price variation.
- ❖ Tax rate – small tax chosen to be borne by the seller in a competitive situation.
- ❖ Tax on commodity having close and effective substitute – difficult to shift.

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- ❖ Geographical coverage of a tax – if tax is not imposed in neighboring areas, it is difficult to shift the tax.

1.13.11 General Effects of Taxation: Effects of Taxation are the changes in the economy resulting from the imposition of a tax system (or a variation in it). Usual working of tax measures in a market economy:

1. All tax measures would work through either influence on the demand and the supply forces in the market.
2. The tax measures either reduce the disposable income of the buyers (individuals, firms and so on) and thereby affect their demand, or they have an important bearing upon the economy through supply efforts of taxation. Elasticity of supply (e^s) and elasticity of demand (e^d) are the major determinants in the detailed results of taxation.
3. On account of the shifting of incidence, both demand and supply reactions may get mixed up leading to further rounds of effects, which is called “announcement effects”

Economists have devoted considerable effort to studying the effects of taxes. In particular, they study how taxes affect people’s behavior, including their choices in working, saving, and investing.

Effect on	Effects of Direct Tax	Effects of Indirect Tax
Income	Higher direct taxes <u>reduce</u> disposable income by curtailing the income directly. In the countries where unemployment allowances are provided, the situation becomes worse when an unemployed gets employment but falls in the lower income-bracket, because then he will not receive the unemployment benefit and at the same time he has to pay tax. This is called ‘unemployment trap’.	Usually the imposition of an indirect tax <u>increases</u> the price of the concerned goods or services. Thus the purchaser has to pay <u>more</u> , which <u>reduces</u> the net income.
Savings and Investment	Higher direct taxes reduce the ability of the tax-paying individuals or enterprises to save or invest. But it depends on the extent of financing the enhanced tax from savings or consumption.	Usually it is said that higher indirect tax indirectly encourages savings, because it increases price and thereby reduces demand. But in the overall effect, higher indirect taxation decreases savings and investments.
Price	Higher direct taxes have a deflationary effect on price by decreasing the demand. But labor organizations may create pressure to increase the wage level to meet	Indirect taxation usually increases price level and it has an inflationary effect. But the extent of inflationary effect depends on the price elasticity of demand and

Effect on	Effects of Direct Tax	Effects of Indirect Tax
	the higher taxes, which may cause a cost-push inflationary effect.	supply. If the price elasticity of supply is more than the price elasticity of demand, then the price will rise and if the price elasticity of demand is higher, then the price will fall.
Initiative	Higher direct taxes have a negative effect on initiative, because then the leisure will be more preferable to work. But due to higher direct tax some might do more works to maintain the standard of living.	Higher indirect tax has also a negative effect on the business community's initiative, because it is seen as an impediment to their trade and commerce causing a price barrier.
Overall Economy	Other things remaining the same, as a result of higher taxation, aggregate demand of the economy will fall, which may cause an inflationary effect on the price and output levels. Balance of payments may be improved by decreasing the dependency on foreign aid. But the employment situation may be worsen due to the fall in aggregate demand. Besides, taxation may affect regional disparity, inequality between income and wealth, etc.	

1.14 BUSINESS TAXATION – AN INTRODUCTION

A business enterprise is considered as the activity of providing goods and services involving financial and commercial and industrial aspects. They have a separate economic entity i.e. the business and the owner is separate from each other. As a separate entity they are also eligible to pay tax.

1.14.1 Types of Business Enterprises: Considering the ownership status, a business enterprise is classified into following three categories:

- a. **Sole-proprietorship:** is a business structure owned by an individual who has full control/authority of its own and owns all the assets, personally owes answers all liabilities or suffers all losses but enjoys all the profits to the exclusion of others. Having such an ownership structure, the owner pays no taxes other than the income tax. There is no definite legal procedure for sole-tradership to be complied with.
- b. **Partnership:** is a form of business organization created through voluntary agreements of minimum 2 and maximum 20 persons (the maximum is 10 for banking business), with the intention of making and sharing profits among themselves. A partnership can arise only as a result of an agreement or contract, expressed or implied, between the partners. In Bangladesh, a partnership firm is to be formed under the provisions of the Partnership Act 1932. The Partnership Act 1932 does not require a partnership deed or agreement to be registered (or registration is optional). But if registered, a partnership firm can enjoy some legal rights and facilities.
- c. **Company:** According to S2(20) of the ITO, 1984, "Company" means a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994), and includes:

- (a) a body corporate established or constituted by or under any law for the time being in force;
- (b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
- (bb) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994);
- (bbb) any association or body incorporated by or under the laws of a country outside Bangladesh; and;
- (c) any foreign association or body, not incorporated by or under any law, which the Board may, by general or special order, declare to be a company for the purposes of this Ordinance;

1.14.2 Pass-Through vs. Non-Pass-Through Entities: We can divide the **tax treatment** of business entities into two categories: **pass-through** and **non-pass-through**. Pass-through entities do not pay taxes directly. Instead, their profits are allocated to the owners of the business. These profits are then included as income on the tax returns of the business owners to whom they were allocated. Examples of pass-through entities include sole proprietorships, master limited partnerships (MLP), limited liability partnerships (LLP). Non-pass-through entities, on the other hand, pay taxes on their profits directly at the corporate level income tax rate. Of course each type of entity has its nuances and peculiarities, most practitioners agree that pass-through treatment is generally preferable to non-pass-through treatment. Here's why. Non-pass-through entities are taxed on their profits at the entity level. They then pay dividends to their stockholders (owners). Those dividends are income, taxed to the individual stockholder on their income tax return. The effect of this is that **the profits of the business are taxed twice:** once to the business, and once to the owner. Pass-through entities, instead, are only taxed at the individual level, resulting in generally lower taxes.

1.14.3 Legal Taxpayer vs. Real taxpayer

Legal taxpayer is actually the person who is liable to pay tax as per the provisions of any laws applicable in a country. On the other hand real taxpayer is a person who actually pays tax liability. Generally in a society where tax evasion exists, the number of real taxpayer is significantly less than the number of total legal taxpayers.

1.15 TAX STRUCTURE IN BANGLADESH

The tax structure in the country consists of both direct (income tax, gift tax, land development tax, non-judicial stamp, registration, immovable property tax, etc) and indirect (customs duty, excise duty, motor vehicle tax, narcotics and liquor duty, VAT, SD, foreign travel tax, TT, electricity duty, advertisement tax, etc) taxes. Analysis of revenue collection activities in Bangladesh for the fiscal year 2016-17 reveals that tax revenue accounts for 86.67 percent of government revenue and direct taxes represent only about 36.72% of total taxes.

As per the National Budget 2017-18, the tax revenue target for the fiscal year 2017-18 has been set by the government to Tk. 2,568.12 billion which was Tk. 1,850.00 billion in the fiscal year 2016-17 as per the revised budget. From the analysis of the National Budget 2017-18, it can be seen that in the fiscal year 2017-18 revenue collections from income tax have been estimated at around Tk.

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851.76 billion (33.17% of total tax), value added tax (VAT) at Tk. 912.54 billion (35.53%), from import duty at Tk. 300.23 billion (11.69%), supplementary duty at Tk. 384.01 billion (14.95%) and others 4.66% of this aggregate target. The salient features of Bangladesh tax system are as follows:

i) **Multiple tax system:** The tax system of Bangladesh consists of various types of taxes which are as follows:

A. Taxes on Income and Profit

1. Income tax – Company
2. Income tax – Other than Company

B. Taxes on Property & Capital Transfer

- | | |
|------------------------------|-----------------|
| 1. Estate Duty | 2. Gift Tax |
| 3. Narcotics Duty | 4. Land Revenue |
| 5. Stamp Duty – non judicial | 6. Registration |

C. Taxes on Goods and Services

1. Customs Duties
2. Excise Duties
3. Value Added Tax (VAT)
4. Supplementary Duty (on luxury items and in addition to VAT)
5. Taxes on Vehicles
6. Electricity Duty
7. Other Taxes and Duties (travel tax, turn over tax, etc.)

ii) **Inadequate and stagnant revenue yield relative to GDP:** The ratio of tax revenue to GDP is very low comparing to other developing countries. In 1973-74 fiscal year, Tax GDP ratio was around 5% and even after 42 years the progress is not satisfactory. We can see the status of the ratio of tax revenue to GDP of Bangladesh in the following table for the last six years (*Source: Bangladesh Economic Review – 2017*):

Revenue as % of GDP	2011 – 12	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
Total revenue	9.3	9.0	9.6	9.8	10.0	10.4
Tax Revenue	7.5	7.1	7.6	7.9	8.0	8.6
Non-tax Revenue	1.8	1.9	2.0	1.9	1.9	1.8

iii) **High-ratio of indirect to direct tax revenue:** An analysis of the revenue from the existing taxes shows that the indirect taxes pre-dominate the revenue yield of the country. Nearly 61% of the tax revenue are from indirect taxes which is clear from the following table (*Source: Bangladesh Economic Review (BER) – 2017*):

Revenue (Tk. in Crore)	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Total revenue	1,14,885	1,39,670	1,56,671	1,63,371	1,77,400	2,42,752
Tax Revenue	96,285	116,824	1,30,178	1,40,677	1,55,400	2,10,402
Non-tax Revenue	18,600	22,846	26,493	22,964	22,000	32,350
% of Tax to Revenue	83.81%	83.64%	83.09%	86.11%	87.60	86.67
Direct Tax (DT)	31,011	38,695	48,321	52,920	55,746	77,268
% of DT to Total Tax	32.21%	33.12%	37.12%	37.62%	35.87%	36.72%
Indirect Tax (IT)	65,274	78,129	81,857	87,757	99,654	1,33,134
% of IT to total tax	67.79%	66.88%	62.88%	62.38%	64.13%	63.28%

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- iv) **Dominance of Indirect Taxes:** It has been seen that the dominance of indirect taxes (especially VAT, import duty and supplementary duty) in tax revenue of Bangladesh is quite significant for last couple of years. Moreover, the contribution of income tax has also been gradually increasing in recent years (See the following table: *Source: BER – 2017*):

Item wise collection	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
VAT	34.6%	35.2%	35.2%	34.7%	34.6%
Import duty	12.4%	10.3%	10.7%	11.0%	10.7%
Income tax	30.2%	34.1%	34.6%	33.3%	34.2%
Supplementary duty	17.1%	14.7%	14.1%	16.1%	14.3%
Other taxes and duties	4.8%	5.0%	4.7%	4.2%	4.1%
Excise duty	0.9%	0.7%	0.7%	0.7%	2.1%

- v) **Tax administration in Bangladesh:** National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh and collected almost 84 percent of total revenue for the country during the fiscal year 2016-17. Various reform measures have been taken and still in consideration to make the tax system of the country more effective and efficient.
- vi) **Tax avoidance behavior of the Taxpayers:** The heavy reliance on indirect taxation has been treated as one of the main obstacles in attaining economic progress in Bangladesh since only a few tax payers share the burden of taxes. Despite NBR's untiring effort, the progress is not still satisfactory. People and corporate firms use various measures to evade tax using loopholes of the current tax system. In a country of 161 million people, only 1.5 million individual and companies/organizations paid income tax in Bangladesh during the assessment year 2016-17, which is less than 1% of the total population.
- vii) **Narrow Tax base:** Our tax base is too narrow and the tax law is full of exemptions and allowances. Agricultural sector provides employment for around 60 percent of the population contributes only 16% of GDP and virtually pays little in the form of income tax. From a study it has been found that around black/shadow economy in Bangladesh consists of around 37% of GDP, from which there is no tax collection.

From the above discussion, it is clear that attaining an optimal tax structure is one of the most important issues for the government to increase the revenue generation from taxes for accelerating growth and to improve the quality of life of the citizens. A long-term sustainable solution to enhance transparency, promote growth, improve tax compliance and thus to increase tax to GDP ratio is a much desirable issue in the context of Bangladesh.

1.16 RANKING OF BANGLADESH IN EASE OF PAYING TAXES:

Paying Taxes 2017 is a unique study from PwC, World Bank and IFC. The study provides data on tax systems in 190 economies around the world, with an ability to monitor tax reform. It is unique because it generates a set of indicators (the Total Tax Rate, the time to comply and the number of payments) that measure the world's tax systems from the point of view of a standardized business (using a case-study scenario). Paying Taxes is also unique in that it covers the full range

of taxes paid in 190 economies by the company, measuring how the business complies with the different tax laws and regulations in each economy. The study not only looks at corporate income tax, but at all of the taxes and contributions that a domestic medium-size case study company must pay. It considers the full impact of all these taxes in terms of both their tax cost and their compliance burden on business. According to the study, the ranking of Bangladesh is 86 among 189 countries (2nd among the SAARC countries.) So, Bangladesh has a long way to go.

Economy	Overall Ranking	Number of Payments	Time to Comply (Hours)	Total Tax Rate (%)
Afghanistan	163	20	275	48.3
Bangladesh	151	33	435	34.4
Nepal	142	34	339	29.5
Pakistan	156	47	312	33.3
India	172	25	241	60.6
Maldives	134	30	406	30.2
Sri Lanka	158	47	179	55.2
Bhutan	19	18	85	35.3

Sources: *Paying Taxes 2017, PWC*

KEY POINTS

1. Taxes are compulsory payment to government without expectation of any direct benefit.
2. Taxation is a way to transfer the resources from private sectors to government sectors in order to accelerate economic and other development.
3. Tax should be levied on the basis of fundamental principles of taxation like Adam Smith's canon of taxation –
 - (a) Canon of Equality – based on ability to pay principal
 - (b) Canon of Economy – cost of collection should not override total collection
 - (c) Canon of Certainty – everything about tax should be definite
 - (d) Canon of Convenience – time and manner to pay tax should be convenient
4. The burden of tax cannot be shifted in direct tax but can be shifted in case of indirect tax.
5. In Bangladesh degressive tax system is followed.
6. For economic development of a country, tax can be used as an important tool by means of optimum allocation of available resources, raising government revenue, encouraging savings and investment, reduction of inequalities in income and wealth, accelerating economic growth, control mechanism etc.
7. The tax structure in Bangladesh consists of both direct and indirect taxes.
8. Tax revenue accounts for 87 percent of government revenue and direct taxes represent only about 37% of total taxes.
9. The tax-structure in Bangladesh is heavily depends on indirect taxes.
10. A long-term sustainable solution to enhance transparency, promote growth, improve tax compliance and thus to increase tax to GDP ratio is a much desirable issue in the context of Bangladesh.

Multiple choice questions:

1. "Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer" – this definition of taxation is given by –
 - (a) Dalton
 - (b) Leroy Beaulieu
 - (c) P. E. Taylor
 - (d) Adam Smith
2. Which of the following is not an objective of taxation –
 - (a) revenue collection
 - (b) reduction of inequalities in income and wealth
 - (c) accelerating economic growth
 - (d) none of the above
3. The tax payer should be well informed as to the time, amount and the method of the payment of tax as suggested by –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
4. Followings are the canon of taxation suggested by Adam Smith, except –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
5. 'The tax system should be flexible so that it is possible for the authority to revise the rates and system with the least inconvenience in order to increase or decrease the revenue' – this statement is the norm derived from the –
 - (a) Canon of Equality
 - (b) Canon of Certainty
 - (c) Canon of Economy
 - (d) Canon of Elasticity
6. When impact and incidence of tax lies on the same person, the tax is known as –
 - (a) direct tax
 - (b) indirect tax
 - (c) single tax
 - (d) multiple tax
7. Value Added Tax (VAT) is an example of –
 - (a) direct tax
 - (b) indirect tax
 - (c) progressive tax
 - (d) none of the above
8. Motor Vehicle Tax in Bangladesh is an example of –
 - (a) direct tax
 - (b) indirect tax
 - (c) regressive tax
 - (d) proportionate tax

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9. Tax on total income of Tk. 1,00,000.00 is 10% but on Tk. 5,00,000.00 is 15% - here the taxation is an example of -
- proportionate tax
 - regressive tax
 - progressive tax
 - degressive tax
10. Income tax in Bangladesh is an example of -
- proportionate tax
 - regressive tax
 - progressive tax
 - degressive tax

Identify the following statements as either true (T) or false (F):

- Payment of taxes is non-penal and non compulsory
- The aim of tax collection is to finance the government expenditure to ensure public interest
- Burden of tax cannot be shifted in case of indirect tax
- Direct tax has an adverse effect on taxpayer's willingness to work and save
- Indirect taxation is a cause of inflation

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 1 - 1:** Define public finance. Explain the importance of public finance.
- Question 1 - 2:** Define taxes and identify some characteristics of taxes based on your definition.
- Question 1 - 3:** "Taxes are compulsory payment to government without expectation of direct return in benefit to the tax payer" - explain.
- Question 1 - 4:** "Taxation is a way to transfer the resources from private sectors to government sectors in order to accelerate economic and other development" - explain the statement in light of purposes of taxation.
- Question 1 - 5:** Classify taxes on the basis of impact and incidence and state the merits and demerits of direct tax and indirect tax.
- Question 1 - 6:** Explain the characteristics of a good tax system.
- Question 1 - 7:** Explain the role of tax in the economic development of Bangladesh.
- Question 1 - 8:** "Tax structure in Bangladesh requires modification" - do you agree? Explain.
- Question 1 - 9:** Write short note on:
- Single tax
 - Progressive tax
 - Degressive tax
 - Income tax
 - Tax impact
 - Tax incidence
 - Tax shifting

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Answers:

Multiple choice questions		True/False
1. c	6. a	1. F
2. d	7. b	2. T
3. b	8. b	3. F
4. d	9. c	4. T
5. d	10. d	5. T

Self review 1 – 1:

According to Income Tax Ordinance (ITO), 1984 'tax' means the income tax payable under the ordinance and includes any additional tax, excess profit tax, penalty, interest, fees or other charges leviable or payable under this ordinance.

Adam Smith states following four canons of taxation:

1. Canon of Equality
2. Canon of Certainty
3. Canon of Economy
4. Canon of Convenience

Self review 1 – 2:

Under progressive tax system the rate of taxation increases as the taxable income increases. The principle of a progressive tax is "higher the income, higher the rate". It is considered more equitable.

Features of a good tax system:

1. Tax should be levied on the basis of fundamental principles of taxation like the principle of least sacrifice, cost and benefit and above all ability to pay.
2. The taxes should be so imposed that they are equitable, convenient to pay, economical, certain, productive and elastic i.e. they should follow the most important canons.
3. Tax system should be balanced containing both direct and indirect nature of taxes so that it can maximize government revenue.

CHAPTER - 2

BANGLADESH INCOME TAX

LEARNING OBJECTIVES

After studying Chapter 2, you shall be able to understand:

- ⊕ the concept and characteristics of income tax
- ⊕ purposes and importance of income tax
- ⊕ role of income tax in Bangladesh economy
- ⊕ scope and features of Bangladesh Income Tax Law
- ⊕ structure of Income Tax Ordinance, 1984
- ⊕ evaluation of Bangladesh Income Tax Law
- ⊕ some important concepts relating to income tax

Income tax is a direct tax, which enjoys a pride of place in the revenues of governments all over the world. In the fiscal scheme of our country, at present, income tax is levied along with other direct and indirect taxes like VAT, Excise duty, Gift tax etc. It is one of the most important sources of revenue for the government to ensure the equitable distribution of resources. The present law of income tax is contained in the Income Tax Ordinance, 1984 and the Income Tax Rules, 1984 as amended up -to-date.

2.1 DEFINITION

In order to generate revenue, government imposes tax on various areas. Of them, income tax is the tax which is levied on the taxable income of a person or entity as per the provisions of the Income Tax Ordinance, 1984. It is calculated and computed with reference to the total income of an assessee for a particular period (normally, on an annual basis). No specific definition of income tax has been given in the Income Tax Ordinance, 1984. But in Section 16 of the ITO, 1984, it has been said that *Income tax for any assessment year at any rate or rates shall be charged, levied, paid and collected in respect of the total income of the income year or income years of every person.* Some definitions of income tax given in the verdict of various cases are as following:

"Income tax is a tax on income and not on anything else. It is one tax not a collection of taxes essentially distinct." – [Bengal Coal Co. Ltd. vs. Janardan Kishore Lal Singh (Cal) 1936 I.T.R. 392]

"Income tax is a tax on income" – [Peter Merchant Ltd. vs. Stedeford; 30T.C. 496,509(CA)]

"Income tax is one tax and not a collection of taxes of different items of income and assessment to income tax is one whole and not a group of assessments of different items of income." – [CIT vs. Numberumal Chatty and Sons. (1933), I.T.R. 32 at 37 (Mad)]

"Income tax is an annual tax and the profits of each year should be subjected to income tax" – [CIT vs. Sri Sukhdeodas Jalan (Pat) 1954, 26, I.T.R. 617]

So, from the above definition it is clear that income tax is a direct and single tax charged on the total income of a person for a relevant income year in relevant assessment year.

2.2 CHARACTERISTICS OF INCOME TAX

From the above analysis, we can depict the following characteristics of income tax:

1. It is a direct tax.
2. The levy of Income tax is regulated by the Income Tax Ordinance, 1984 [Act No. XXXVI of 1984].
3. It is charged on the total income of an income year of a person in an assessment year.
4. The rate of income tax is determined by the government in the National Assembly through the Finance Act. Besides rules/orders/circulars are issued by the National Board of Revenue from time to time.
5. It is one tax not a collection of taxes essentially distinct.
6. Income tax is levied by the government on an annual basis.
7. Tax imposed on items other than income is not income tax.

2.3 OBJECTIVES AND IMPORTANCE OF INCOME TAX

Taxation is one of the major sources of public revenue to meet a country's revenue and development expenditures with a view to accomplishing some economic and social objectives, such as redistribution of income, price stabilization and discouraging harmful consumption. Income tax is one of the most significant sources of public finance. Some major objectives and importance of income tax are as follows:

1. **Revenue collection:** Income tax is a major source of revenue for the government. In Bangladesh, as per the budget of the fiscal year 2017-18, income tax revenue target accounts for 85,176 crore taka which is 33.17 percent of total tax revenue. Therefore, the first and foremost aim of income tax is to raise public revenue to meet the over increasing public expenditure.
2. **Re-distribution of income:** An effective, efficient and fair tax system can reduce inequalities in income and wealth. This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax.
3. **Increase in savings:** An effective and efficient tax system encourages people to save through providing tax credit facilities on investment allowance.
4. **Increase in capital investment:** An effective and efficient tax system encourages local and foreign investors to invest in the country through providing various facilities like tax credit facilities on investment allowance, tax holiday scheme, depreciation allowance, tax incentives etc.
5. **Economic development:** The income tax revenue can be used by the government to ensure the economic development of the country. It can be used to build the infrastructure, to invest in social security programs, in various poverty elevation programs.

So, from the above discussion it is clear that income tax plays a significant role in the economic development of a country. For this reason various reform strategies have been taken to modernize NBR.

SELF REVIEW 2 – 1

(a) Define Income Tax.

(b) Identify three characteristics of Income Tax.

(c) Identify three objectives of Income Tax.

2.4 ROLE OF INCOME TAX IN ECONOMIC DEVELOPMENT OF BANGLADESH

As it has been discussed before, taxation is one of the major sources of public revenue to meet a country's revenue and development expenditures with a view to accomplishing some fundamental economic and social objectives, such as redistribution of income, price stabilization and discouraging harmful consumption. The contribution of income tax is playing a pivotal role in the economic development of Bangladesh. The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984. Some of the provisions are as following:

1. **Tax Holiday Scheme:** According to Section 45, 46, 46A, 46B, 46C, 47 and Para 44 & 45 of Sixth Schedule Part A of the ITO, 1984, an industrial enterprise established within prescribed time limit in the prescribed area shall be exempted from tax for certain period i.e. five to ten years. This is known as Tax Holiday Scheme. The main objective of this scheme is to ensure economic development through industrialization attracting investment in some specific sectors e.g. tourism industries.
2. **Investment allowance:** Investment allowance is given on the investment in new machineries (like machineries of new Fishing Boats & passenger boats) @ 20%, if they are established in NBR specified areas it is 25%. This provision is also attracting investors.
3. **Accelerated Depreciation Allowance:** Depreciation allowance is allowed on the new machineries used in various industries at a specified rate (100% in first year for specified areas, and 80% in first and 20% in the second year for industries established in other areas.)
4. **Tax incentives for Small & Cottage Industries:** According to Section 47(b)(ii) tax incentives are allowed on the income and profit of cottage industries to encourage investment which can contribute to the economy significantly.
5. **Tax incentives for encouraging savings:** The government also encourages savings providing tax credit facilities on certain types of investment and expenditures. Such as, investment in stock market, savings certificate, DPS, insurance premium, provident fund, government treasury bill etc.
6. **Tax exemptions in certain expenditures:** Certain expenditures to enhance social welfare like contribution to president's / prime minister's relief fund; Government Zakat fund, Ahsania Mission Cancer Hospital etc. are exempted from tax payment. These provisions also encourage people to spend in certain social development program.
7. **Tax incentives for foreign investors:** For attracting foreign investors various concessions like tax holiday, tax exemptions for interest, royalty, technical assistance and fees, remittance to own country have been allowed as per the ITO, 1984.
8. **Allowance for scientific research:** For developing new products, technologies in the industrial sectors certain allowance is allowed. Tax rebate is given on the cost of relevant scientific research.
9. **Tax incentives for remittance to Bangladesh:** A significant number of Bangladeshi people works abroad and to encourage them remittances through banking channel has been declared tax exempted.

So, it can be said that to ensure the economic development of the country certain provisions have been introduced in the ITO, 1984. These provisions encourage not only foreign investors but also the local entrepreneurs.

2.5 SCOPE OF BANGLADESH INCOME TAX LAW

In order to determine income tax on the income of an assessee in Bangladesh, certain provisions, rules and regulations have to be kept in mind. They are as follows:

1. **The Income Tax Ordinance, 1984:** The ITO, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. It also lays down the powers and duties of various income tax authorities.
2. **Income Tax Rules, 1984:** Every Act normally gives power to an authority, responsible for implementation of the Act, to make rules for carrying out purposes of the Act. Section 185 of the ITO, 1984 has given power to the National Board of Revenue to make such rules named Income Tax Rules, 1984.
3. **Finance Act:** Finance Minister presents this as Finance Bill in the Parliament. Once the Finance Bill is approved by the Parliament and gets the assent of the President, it becomes the Finance Act. It gives effect to the various proposals in the annual budget covering the areas of direct and indirect taxes. It contains various applicable tax rates and other amendments of the Income Tax Ordinance and Rules, 1984.
4. **SRO (Statutory Regulatory Orders)/ Circulars/ Notifications from NBR:** According to the Section 185 of the Income Tax Ordinance, 1984, NBR can issue certain orders / circulars as and when necessary. The provisions of these SROs/circulars are also to be considered at the time of computing income tax like the provisions of Income Tax Ordinance and Rules.
5. **Judicial Decisions:** In the course of assessment proceedings, there may sometimes arise a dispute between the NBR and the assessee over the interpretation of some of the provisions of the act and rules. The assessee can go the court objecting the NBR's interpretation, and the judgments given by the courts act as guidance to the assessing officers and the assessee in similar circumstances in the future.

2.5.1 Income tax ordinance to override other laws [Section 184F]:

According to Section 184F of the ITO, 1984, Notwithstanding anything contained in any other law for the time being in force, the provisions of the Income Tax Ordinance, 1984 or any proceedings thereunder shall prevail over any other law in respect of tax on income and exemptions of tax thereof.

2.6 THE SCHEME OF INCOME TAX LAW: AN OVERVIEW

Every *person*, whose *total income* of the *income year* exceeds the *maximum amount* which is not chargeable to income tax, is an *assessee* and *chargeable* to income tax at the *rate* or *rates* prescribed in the *Finance Act* for the relevant *assessment year*. However his total income shall be determined on the basis of his *residential status in Bangladesh*. The determination of the tax liability of an assessee will be done on the basis of the relevant provisions under the prevailing updated income tax laws of Bangladesh. For the assessment year 2017 - 18, only those individuals whose income exceeds Tk. 250,000 [in case of women, elderly citizens who are above 65 years of age Tk. 300,000, for disable persons Tk. 400,000 and for gazetted wounded freedom fighters Tk. 425,000] will have to pay income tax. The special features of the Bangladesh income tax law may be enumerated below:

1. Income earned by every person is chargeable to income tax if it exceeds the maximum exemption limit.
2. The term "person" includes an individual, a firm, an association of persons, a hindu undivided family, a trust, a fund, local authority, a company, an entity and every other artificial judicial person.

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3. Income tax is charged on the total income of the income year but is taxable in the next following assessment year at the rates applicable to such assessment year. However, there are certain exceptions to this rule.
4. While assessing all these persons, their residential status is to be seen. Persons who are residents in Bangladesh are required to pay tax on their incomes earned, though received anywhere of the world, whereas persons who are non-residents would pay tax only in respect of incomes earned and received in Bangladesh.
5. Taxable income arises from many sources which are grouped under seven heads named salaries, interest on securities, income from house property, agricultural income, income from business or profession, capital gains and income from other sources. The Ordinance has various provisions to assess income under all these heads.
6. While assessing income under different heads, some losses of one head can be set-off against positive incomes under other heads, subject to some limitations prescribed in the ordinance. It has also provided a guideline to consider whether a particular receipt is income or not.
7. There are many provisions in the ordinance which enable an aggrieved assessee to go in appeal to the higher authorities or courts for justice. It has also imposed of interest, penalties and fines for the violation of any provisions under these act and rules. Wide powers have also been given to the taxing authority to deal with all types of situations.
8. Taxpayers can submit tax return under 'universal self-assessment' or 'normal' scheme. Tax rates and scope of taxable income differ on the basis of residential status of an assessee (resident or non-resident).

SELF REVIEW 2 - 2

Explain how government of Bangladesh has taken various measures to modernize the tax system

2.7 STRUCTURE OF INCOME TAX ORDINANCE, 1984

The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. A brief description regarding these enumerated below:

The Income Tax Ordinance, 1984 – Chapters and Sections

Chapter	Sections	Title
1	1-2	Preliminary
2	3-10	Administration
3	11-15	Taxes Appellate Tribunal
4	16-19	Charge of Income Tax
5	20-43	Computation of Income
6	44-47	Exemption and Allowances
7	48-74	Payment of Tax before Assessment
8	75-80	Return and Statement
9	81-94	Assessment
10	95-103	Liability in Special Cases
11	104-107	Special Provisions relating to avoidance of tax
11A	107A – 107J	Transfer Pricing
12	108-110	Requirement of furnishing certain information
13	111	Registration of firms

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14	112-122	Powers of Income Tax Authorities
15	123-133	Imposition of Penalty
16	134-143	Recovery of Tax
17	144-145	Double Taxation Relief
18	146-152	Refunds
18B	152F – 152S	Alternative Dispute Resolution
19	153-162	Appeal and Reference
20	163	Protection and Information
21	164-171	Offences and Prosecution
22	172-184	Miscellaneous
23	185-187	Rules and Repeal

The Income Tax Ordinance, 1984 – Schedules

First Schedule:	Part – A	Approved Superannuation Fund
	Part – B	Recognized Provident Fund
Second Schedule:		Rates of income tax in certain special cases
Third Schedule:		Computation of Depreciation Allowance
Fourth Schedule:		Computation of the Profits and Gains of Insurance Business
Fifth Schedule:	Part – A	Computation of Profits and Gains from Exploration and production of petroleum and the determination of tax thereon.
	Part – B	Computation of Profits and Gains from Exploration and Extraction of Mineral deposits in Bangladesh (except oil and gas).
Sixth Schedule:	Part – A	Exclusions from total Income – Non-assessable income.
	Part – B	Exemptions and allowances – Tax credit income.
Seventh Schedule		Double Taxation Relief

The Income Tax Rules, 1984

The IT Rules, 1984, comprises sixty nine rules to supplement various sections and provisions of the IT Ordinance, 1984. National Board of Revenue (NBR) enjoys flexibility to amend or change any rules through the notification in the official gazette.

2.8 A BRIEF HISTORY OF INCOME TAX LAW IN BANGLADESH

Bangladesh inherited a system of taxation from its past British and Pakistani rulers. The system, however, developed on the basis of generally accepted canons and there had been efforts towards rationalizing the tax administration for optimizing revenue collection, reducing tax evasion and preventing revenue leakage through system loss. In the Indian Subcontinent, first Income Tax Act has been introduced in 1860 by the then English rulers following the Income Tax Act of England. After five years of its introduction, it has been repealed and withdrawn in 1867 due to the rapid changes in the political and socio-economic culture of the state. Then it has been again introduced by the government as the License Act, 1987 to finance the budget deficit. In 1868, the name of the Act has been changed as “The Certificate Act, 1868” featuring certain provisions like reduced tax rates, tax exemption up to a certain limit of total income, tax relief for agricultural income etc.

In 1869, “The Income Tax Act – II” has been passed after doing necessary changes in “The Certificate Act, 1868”. Here tax has again been charged on agricultural income. This Act has been repealed and withdrawn again in 1873 but later further introduced in 1877 in the name of “The License Tax Act, 1877”. It has been followed upto 1886. In 1886, British government has introduced

“The Income Tax Act – 1886; Act II of 1886”. Again in 1918, incorporating various amendments of this Act, “The Income Tax Act – 1918; Act VII of 1918” has been passed by the English government. In this Act, the total income has been divided into six heads named salaries, interest on securities, income from house property, income from business, Income from profession and income from other sources.

In 1921, a committee named “All India Committee” has been formed to evaluate the need for necessary changes in this act. On the basis of the recommendations and guidelines suggested by this committee, “The Income Tax Act – 1922; Act XI of 1922” has been introduced. The introduction of this act is considered the most significant achievements in the income tax law in Indian Subcontinent since the current tax laws of Pakistan, India and Bangladesh has been introduced on the basis of this Act. India and Pakistan both the country accepted “The Income Tax Act – 1922; Act XI of 1922” as their income tax law after their independence from British rule in 1947. Then in India “The Income Tax Act – 1961” has been introduced incorporating necessary changes in the earlier Act of 1922. But, Pakistan had been following the old “The Income Tax Act – 1922; Act XI of 1922” incorporating some amendments in the following years like Tax Holiday Scheme of 1959, Self-assessment system of 1965 etc.

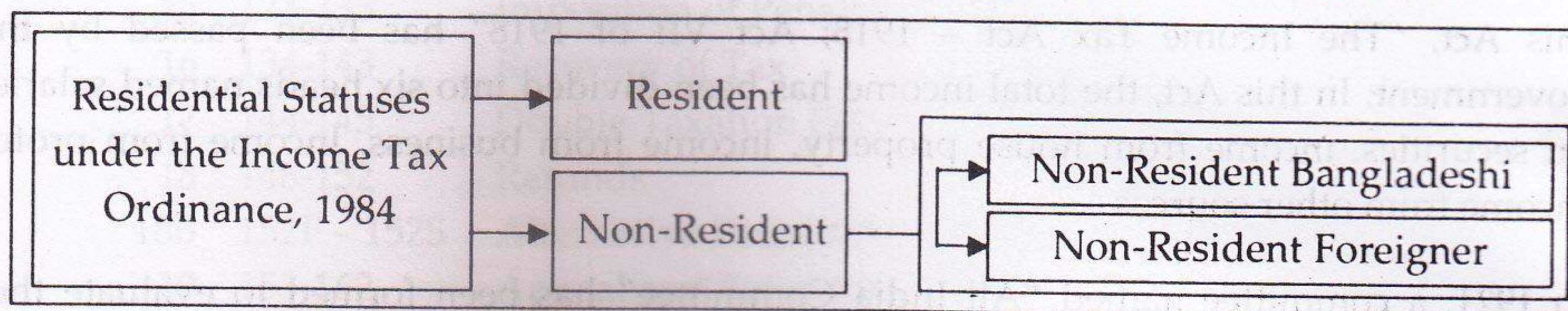
After its independence in 1971, Bangladesh has also inherited the “The Income Tax Act – 1922” which has been followed in Pakistan and adopted it with necessary changes made from time to time. In order to modify necessary changes of the old act to cope with the demand of time, a “Taxation Enquiry Commission” has been formed in 1976. As per their guidelines and recommendations, “Income Tax Ordinance, 1984 (XXXVI of 1984) has been introduced repealing “The Income Tax Act – 1922”. The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as the Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc. This Ordinance is supported by the “Income Tax Rules, 1984” known as the Income Tax Manual II and various SROs. The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all these taxes including income tax. NBR has been empowered with the right to do any kind of changes in the Income Tax Laws subject to the approval of the Parliament and relevant authorities. As a step of ongoing tax reform measures, a new draft law titled “The Direct Taxes Code, 2012” relating to direct taxes have been introduced in the year 2012. The government has a plan to make it effective from 1st July, 2018. Before passing the final Act, the government has taken opinions from various bodies and general public. The new law will reduce the current loopholes of the tax law as well as increase the revenue of tax collection in Bangladesh.

2.9 INCOME TAX PAYMENT CYCLE / PROCEDURE IN BANGLADESH:

Income tax is levied on an assessee’s total income. Such total income has to be computed as per the provisions contained in the Income Tax Ordinance 1984 and other relevant laws. Let us go step by step to understand the procedure of total income computation to levy of income tax-

- Step – 1: Determination of Income Year (time period covered) and Assessment Year:** The time period covered in the relevant income year of an assessee has to be determined first. The income earned during the relevant income year time period will be considered for computing total income. The assessment year will also be determined accordingly.
- Step – 2: Determination of Residential Status:** The residential status of a person has to be determined to ascertain which income is to be included in computing the total income.

The residential statuses as per the Income Tax ordinance, 1984 are shown below:



The residential status of a person determines the taxability of the income. For e.g., income earned outside Bangladesh will not be taxable in the hands of a non-resident but will be taxable in case of a resident.

Step – 3: Classification of Income under Different Heads: According to ITO, 1984 and Income Tax Return Format, total income is classified under ten heads. They are –

- | | |
|--------------------------------------|------------------------------|
| 1. Salaries | 6. Interest on Securities |
| 2. Income from House Property | 7. Agricultural Income |
| 3. Income from Business & Profession | 8. Capital gain |
| 4. Income from Other Sources | 9. Share of profit in a Firm |
| 5. Income of Spouse or Minor Child | 10. Foreign Income |

These heads of income exhaust all possible types of income that can accrue to or be received by the taxpayer. The tax payer has to classify the income earned under the relevant head of income.

Step – 4: Exclusion of Income not Chargeable to Tax: There are certain incomes which are wholly exempt from income tax e.g. pension, gratuity, interest on zero coupon bond. These incomes have to be excluded and will not form part of Gross Total Income. Also, some incomes are partially exempt from income tax e.g. house rent allowance, conveyance allowance. These incomes are excluded only to the extent of the limits specified in the Act. The balance income over and above the prescribed exemption limits would enter computation of total income and have to be classified under the relevant head of income.

Step – 5: Computation of Income under each Head: Income is to be computed in accordance with the provisions governing a particular head of income. Under each head, there is a charging section which defines the scope of income chargeable under that head. There are admissible expenses prescribed under each head and they will be deducted from the respective incomes to compute the net income chargeable under each head.

Step – 6: Clubbing of Income of Spouse, Minor Child etc.: In case of individuals, income tax is levied on a slab system on the total income. The tax system is progressive i.e. as the income increases, the applicable rate of tax increases. So, taxpayers in the higher income bracket may divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. In order to prevent such tax avoidance, clubbing provisions have been incorporated in the ITO, 1984, under which income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person who has diverted his income for the purpose of computing tax liability.

Step – 7: Set-off or Carry Forward of Losses: An assessee may have different sources of income under the same head of income. For instance, an assessee may have profit from his textile business and loss from his printing business. The loss can be set-off against the profits of textile business to arrive at the net income chargeable under the head

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“Income from Business and Profession”. Similarly, an assessee can have loss under one head of income, say, Income from house property and profits under another head of income, say, Income from business and profession. There are provisions in the ITO, 1984 for allowing inter-head adjustment in certain cases. Further, losses which cannot be set-off in the current year due to inadequacy of eligible profits can be carried forward for set-off in the subsequent years as per the provisions of the Ordinance.

Step - 8: Computation of Gross Total Income: The final figures of income or loss under each head of income, after allowing the deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

Step - 9: Deductions from Gross Total Income: There may have deductions prescribed from Gross Total Income. Such as, as per ITO, 1984 if agriculture is the only source of income there will be a deduction of Tk. 200,000 from the Gross Total Income.

Step - 10: Total Income: The income arrived at, after claiming the above deductions from the Gross Total Income is known as the Total Income. It is also called the Taxable Income.

Step - 11: Application of the Rates of Tax on the Total Income: The rates of tax for the different classes of assesses are prescribed by the Finance Act. For individuals, HUF, Firm, AOP and AJP, there is a slab rate and basic exemption limit. At present, the following tax rate is applicable in the assessment year 2017-2018:

Income slab	Rate
On the first Tk. 250,000 of total income	Nil
On the next Tk. 400,000 of total income	10%
On the next Tk. 500,000 of total income	15%
On the next Tk. 600,000 of total income	20%
On the next Tk. 30,00,000 of total income	25%
On the balance of Total income	30%

The minimum non-assessable income limit will be Tk. 300,000 for women, and elderly citizens being more than 65 years of age. For disable persons and gazetted wounded freedom fighters the minimum non-assessable income limit will be Tk. 400,000 and Tk. 425,000 respectively. *The minimum non-assessable limit of the parents or legal guardians of disable/handicapped person will be Tk. 25,000 more, but in case of being both father and mother taxpayer, only one will avail the benefit.*

However, the minimum tax would be Tk. 5,000 (Dhaka -North & South & Chittagong city corporation area), Tk. 4,000 (other city corporation area), Tk. 3,000 (areas other than city corporation). For companies, different tax rates are applicable (e.g. Banks 40% to 42.5%, Public Limited Co. 25%, Private Limited Co. 35% etc. The tax rates have to be applied on the total income to arrive at the **gross income tax liability**.

Step - 12: Surcharge: Surcharge is an additional tax payable over and above the income tax. Surcharge is levied as a percentage of income tax. For the assessment year 2017-18 surcharge is applicable as:

Net Wealth Amount	Rate of Surcharge
Upto Tk. 2.25 crore	Nil
More than Tk. 2.25 crore but less than Tk. 5 crore	10%
More than Tk. 5 crore but less than Tk. 10 crore	15%
More than Tk. 10 crore but less than Tk. 15 crore	20%

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More than Tk. 15 crore but less than Tk. 20 crore	25%
More than Tk. 20 crore	30%

If net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000. Moreover, 2.5% surcharge will be applicable on a taxpayer's income from Cigarette, Biri, Jorda, Gul and other tobacco made products manufacturing business.

Step – 13: Computation of Gross Tax Liability and Surcharge: By adding gross income tax liability and surcharge an assessee can determine the total amount payable as income tax and surcharge.

Step – 14: Deduction of Tax Credit / Rebate on Tax Free Income and Investment Allowance: From the total amount payable as income tax and surcharge the assessee will deduct rebates. As per the provisions of the ITO, 1984 tax rebate is allowed –

⇒ @ **Average rate** on tax free income (e.g. share of profit in a firm / AOP).

⇒ @ **10% to 15%** on investment allowance. Some example like purchase of listed company's share, government securities, savings certificate etc. will be considered as investment allowance. However, maximum amount eligible for tax rebate would be restricted to the lower of **25%** of the total income or **Tk. 1.5 crore**.

After deducting the rebates from total liability an assessee will get the amount of **net liability after considering tax rebates**.

Step – 15: Adjustment of Advance tax, Tax deducted at source (TDS) and Refund: Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance in certain installment on the basis of estimated income. In certain cases, tax is required to be deducted at source from the income by the payer at the rates prescribed in the Act. Such deduction should be made either at the time of accrual or at the time of payment, as prescribed by the ITO, 1984. For example, in the case of salary income, the obligation of the employer to deduct tax at source arises only at the time of payment of salary to the employees. Such tax has to be remitted to the respective Tax Circle and Zone through Treasury Challan or Bank draft. Moreover, if the assessee has paid excess amount of tax in prior year than the desired tax liability, he can claim refund for the excess which can be adjusted with the tax liability of the next year at the option of the assessee. After adjusting advance tax, tax deducted at source and refund, the assessee will get the net tax liability to be paid along with income tax return.

Step – 16: Obtaining the Tax Identification Number (TIN): An assessee has to obtain a 12 digit E-TIN through online/from tax office if his total income exceeds the non-assessable limit (e.g. Tk. 250,000/Tk. 300,000/Tk. 400,000/Tk. 425,000 in respective cases) before submitting the Income Tax Return.

Step – 17: Submission of Income tax return and payment of tax: If any tax is still due on the basis of return of income, after adjusting advance tax, tax deducted at source and refund, the assessee has to pay such tax (called self-assessment tax) at the time of filing of the return. The Income Tax Return is submitted within due date to the tax office following relevant procedure.

2.10 RIGHTS AND OBLIGATION OF A TAXPAYER UNDER THE ITO, 1984

2.10.1 General Rights:

1. A Taxpayer is entitled to receive professional service and assistance from the concerned Taxes offices including supply of forms and brochures, guidelines for submitting tax returns etc.

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2. A Taxpayer may either represent himself for any of his tax matters or, engage an authorized representative as provided in the law.
3. A Taxpayer is entitled to have access to his own tax records held by the office.
4. The Tax Authorities are required to act impartially and use their powers in a fair and professional manner.
5. Burden of proof is shifted to the DCT in figuring admissible disallowance or deduction [sec. 30A].
6. The taxpayer has a right to be heard before a penalty is imposed [sec. 130].
7. The taxpayer is entitled to instant refund as soon as it becomes due [sec. 135(1A)].
8. A taxpayer is entitled to 7.5% interest per annum on the unpaid refund if refund due is not paid within 2 months [sec. 151].
9. Collection cannot be enforced on a taxpayer so long as his appeal is not disposed of [sec. 135(3)]
10. In certain situations, taxpayer may avail installment payment of arrears [sec. 135(2)]
11. The taxpayer has the right to apply for alternative dispute resolution of a dispute which is pending before any income tax authority, tribunal or court. [sec 152I]
12. The taxpayer enjoys a confidentiality privilege [protection of information] [sec. 163]
13. A taxpayer applying for E-TIN through online / in a prescribed manner becomes entitled to be registered with the tax authority [sec. 184B]
14. A taxpayer is protected from unilateral authoritarian action of the Revenue under a specific law enacted for the purpose [sec. 84]
15. Taxpayers performing as withholding agents are indemnified for deduction or retention or payment of tax on behalf of other taxpayers [sec. 181].

2.10.2 Appeal Rights

When to Appeal

An assessee has the right of appeal if he is aggrieved by:

- ❖ any order of a Deputy Commissioner of Taxes (DCT) or of any other authority exercising the assessment functions; or
- ❖ any order of an Inspecting Joint Commissioner of Taxes or an Inspecting Addl. Commissioner of Taxes revising the order of the DCT.

Initial Appeal

As indicated in the Notice of Demand:

- ❖ A non-corporate assessee may prefer an appeal before the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes.
- ❖ A corporate assessee may prefer an appeal before the Commissioner of Taxes (Appeal).

How and when to file an Appeal

- ❖ Every appeal has to be drawn up in a prescribed form –
 - a) rule 27 for an Appeal to the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes.
 - b) rule 27A for an Appeal to the Commissioner of Taxes (Appeals);

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- c) be accompanied by a fee of Tk 200 (Sec. 154).
- ❖ An appeal shall be presented within 45 days,
 - a) if it relates to assessment or penalty, from the date of service of the notice of the demand,
 - b) in any other case, from the date the impugned order is served.
- ❖ An appellate authority may admit an appeal beyond the period of limitation on cogent grounds.
- ❖ An appellate authority may admit at the hearing stage any documentary evidence that was not produced before the DCT - provided it could be proved that the appellant was prevented by sufficient cause from producing such evidence before the DCT.
- ❖ The appellant has the right to be heard either in person or by an "authorized representative".
- ❖ No Appeal, however, shall lie unless tax payable under section 74 (admitted liability on the basis of return) has been paid (Sec. 153(3)).
- ❖ An Appeal shall be deemed to have been allowed if the aforesaid authorities fail to make an order within one hundred and fifty (150) days from the end of the month on which the Appeal was filed (Sec 156).
- ❖ The aforesaid Appellate authorities have to communicate the Appeal order to the appellant within thirty (30) days of passing such order (Sec 156)

Subsequent Appeals

1. **Appeal to the Appellate Tribunal:** An assessee may appeal to the Appellate Tribunal if he is aggrieved by an order of the Appellate Joint Commissioner of Taxes or the Appellate Addl. Commissioner of Taxes or the Commissioner of Taxes (Appeals).

How and when to file an Appeal:

- ❖ The appeal has to be filed within sixty (60) days of communication of the order sought to be appealed against in a prescribed form (Rule 28) accompanied by a fee of Tk. 1,000.
 - ❖ No Appeal shall lie unless the assessee has paid ten per cent (10%) of the amount representing the difference between the tax as determined on the basis of the order of the Appellate Joint Commissioner or the Appellate Addl. Commissioner of Taxes or the Commissioner of Taxes (Appeals) and the tax payable under section 74; The commissioner of Taxes may reduce the payment in reasonable ground on application (Sec 158).
 - ❖ Appellant may however seek waiver to the Commissioner of Taxes who is the final authority.
 - ❖ An Appeal filed by assessee shall be deemed to have been allowed if the Tribunal fails to make an order within a period of 8 months from the end of the month in which the Appeal was filed (Section – 159).
 - ❖ The order of Appellate Tribunal has to be communicated to the appellant within 30 days from the date of passing such order.
2. **Reference to the High Court Division of the Supreme Court:** An assessee may make a reference to the High Court Division if still aggrieved with the decision of the Tribunal on any question of law. The reference may be made in prescribed form (Rule 29) within ninety (90) days from the date of receipt of the order of the Tribunal accompanied by a fee of Tk. 2000 (Sec 160). But in this regard, no reference by an assessee shall lie unless

he has paid 15% of the amount representing the difference between the tax as determined on the basis of the order of the Taxes Appellate Tribunal and the tax payable under section 74 where tax demand does not exceed one million taka. This rate is 25% where tax demand exceeds one million taka.

3. **Appeal to the Appellate Division of the Supreme Court:** An Appeal against the judgment of the High Court Division shall lie to the Appellate Division provided it is certified by the High Court Division to be a fit case for appeal. However, tax shall be payable as per the demand unless the recovery thereof has been stayed by the High Court Division or Appellate Division [Sec 161(4) & Sec 162(4)].
4. **Alternative Dispute Resolution:** The assessee has the right to resolve any dispute lying with any income tax authority, taxes Appellate Tribunal or Court through Alternative Dispute Resolution (ADR).

2.10.3 Obligations of a Taxpayer

1. A Taxpayer should file correct Return by disclosing all his income, provide supporting documents and pay due tax within the time limit specified by law.
2. A Taxpayer is required to pay advance tax on a four quarterly basis if his latest assessed income exceeded Tk. 4 lakh (excluding agricultural income and capital gains).
3. An individual taxpayer is obliged to provide details of his assets and liabilities as well as particulars of his lifestyle in the return.
4. A Taxpayer is required to comply with statutory notices issued by the tax authority.
5. A Taxpayer is required to furnish to the tax authority correct and accurate particulars of his income.
6. A Taxpayer having commercial transaction is required to maintain accounts in the prescribed manner.
7. A Taxpayer is obliged to furnish certificate, statement, accounts and information as required u/s 58, 108, 109, 110 or 113.
8. A Taxpayer having income from business or profession is obliged to display TIN certificate at a conspicuous location of his business premises.

A Taxpayer owning a property is obliged not to the transfer or otherwise deal with the said property following the receipt of notice of attachment issued by TRO.

2.10.4 Consequences of Default:

Nature of Default	Penalty leviable
1. Failure to deduct/collect tax at source, to deposit deducted/ collected tax into national exchequer [Section - 57]	(a) 2% of the amount of tax to be deducted, collected or deposited per month
2. Failure to give notice to the DCT regarding the discontinuance of business [Section - 89(3)]	(a) Maximum the amount of tax subsequently assessed
3. Failure to keep, maintain or furnish information, documents or records to the Deputy Commissioner of Taxes as per Section - 107E [Section - 107G]	(a) Maximum 1% of the value of each international transaction

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| 4. Failure to comply with the notice or requisition under Section - 107C regarding computation of arm's length price [Section - 107H] | (a) Maximum 1% of the value of each international transaction |
| 5. Failure to comply with the provision of Section - 107EE regarding submission of statement of international transactions [Section - 107HH] | (a) Maximum 2% of the value of each international transaction |
| 6. Failure to furnish report from a Chartered Accountant under Section - 107F [Section - 107I] | (a) Maximum BDT 300,000 |
| 7. Failure to maintain accounts in the prescribed manner as per Section - 35(2) (assessee does not have income from house property) [Section - 123(1)] | (a) Maximum 1.5 times of tax liability
(b) Maximum BDT 100, where the total income does not exceed the maximum amount on which tax is not chargeable |
| 8. Failure to maintain accounts in the prescribed manner as per Section - 35(2) (assessee has income from house property) [Section - 123(2)] | (a) Higher of (a) 50% of taxes payable on house property income or (b) BDT 5,000 |
| 9. Failure to file return of income or withholding tax in due time [Section 124]. | (a) 10% of the tax imposed on last assessed income;
(b) for continuing default Tk. 50/- per day;
(c) minimum penalty Tk. 1,000/-
(d) Such penalty shall not exceed: for individual assessee whose income was not assessed previously Tk. 5,000; whose income assessed previously, 50% of the tax payable on the last assessed income or Tk. 1000, whichever is higher. |
| 10. Failure to file or furnish certificate (including TIN certificate), statement, accounts, information required by or u/s. 58, 108, 109, 110, 148C [Sec 124]. | (a) Tk. 500/-
(b) for continuing default, a further penalty of Tk. 250/- per month. |
| 11. Failure to furnish information to the DGCIC or the DCT under Section 113 [Section 124]. | (a) Tk. 25,000/-
(b) for continuing default, a further penalty of Tk. 500/- per day. |
| 12. Penalty for using fake TIN [Sec 124A] | (a) Not exceeding Tk. 20,000/- |
| 13. Penalty for failure to verify the authenticity of Taxpayer's Identification Number [Sec 124AA] | (a) Not exceeding Tk. 200,000/- for serving without TIN, where it is required.
(b) Upto Tk. 50,000/- for failure to verify. |
| 14. Failure to pay advance tax [Sec 125] | (a) Maximum the amount of shortfall |
| 15. Failure to comply with statutory notices issued under sections 79, 80, 83 [Section 126] | (a) An amount not exceeding the tax chargeable on the total income. |

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16. Failure to pay minimum 80% of the tax on the basis of return [Section 127].	(a) Not exceeding 25% of the total or unpaid tax, as the case may be
17. Concealment of income or furnishing inaccurate particulars thereof or understatement of the sale value of immovable property [Section 128].	(a) 15% of the evaded tax or the value of the property, as the case may be. (b) If concealment detected after 1 year: Additional 15% for each preceding year
18. Incorrect or false audit report by Chartered Accountant [Section 129A]	(a) Minimum: BDT 50,000; Maximum: BDT 200,000
19. Furnishing fake audit report [Section 129B]	(a) BDT 100,000
20. Default in payment of tax [Section 137]	(a) Maximum amount of arrear tax

2.10.5 Punishment for non-compliance of certain obligations:

Subject to the following conditions, punishment for non compliance of certain obligations is enumerated in various provisions of the ITO 1984:

- ❖ No prosecution shall be instituted except with the previous sanction of the National Board of Revenue.
- ❖ Commissioner is empowered to compound any punishable offence either before or after the institution of prosecution.

Nature of noncompliance	Punishment
<p>1. a) failure to deduct or collect and pay tax as required under the relevant provisions except advance payment of tax</p> <p>b) failure to comply with third party obligation u/s 143(2);</p> <p>c) failure to produce, accounts, documents or statements;</p> <p>d) refuses to furnish information as necessary u/s 113.</p> <p>e) failure to furnish return of income;</p> <p>f) refusing to permit inspection or to allow copies to be taken in accordance with the provisions of sec. 114;</p> <p>g) failure to extend required co-operation to an income tax authority exercising powers u/s 115;</p> <p>h) failure to comply with the requirement under section 116(1)</p> <p>i) failure to comply with the requirement under section 116A(1)</p> <p>j) refusing to permit or obstructing the exercise of powers by an income tax authority u/s 117.</p>	<p>maximum one year imprisonment, or with fine, or both [Section 164]</p>
<p>2. a) making false statement in any verification in any return or document furnished</p> <p>b) aiding, abetting, assisting, inciting or inducing another person to make or deliver a false return account, statement, certificate or declaration.</p>	

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<p>c) making or delivering himself knowingly and willfully any false return, account, statement, certificate or declaration on behalf of another person;</p> <p>d) signing and issuing any false certificate under proviso of sec. 82.</p> <p>e) refusing to furnish required information u/s. 115.</p>	3 months to 3 years imprisonment, or with fine, or both [Section 165].
3. Punishment for improper use of TIN Number	upto 3 years imprisonment, or with fine upto Tk. 50,000, or both [Sec 165A].
4. Punishment for furnishing fake audit report	3 months to 3 years imprisonment, or with fine upto Tk. 1 lac, or both [Section 165AA].
5. Punishment for obstructing an income tax authority	upto 1 year imprisonment, or with fine, or both [Section 165B].
6. Punishment for unauthorized employment of a non-Bangladeshi citizen	3 months to 3 years imprisonment, or with fine upto Tk. 500,000, or with both [Section 165C].
7. Concealment of income and furnishing inaccurate particulars thereof	3 months to 5 years imprisonment, or with fine, or with both [Section 166].
8. Transferring property to pre-empt attachment by TRO	Maximum 5 years imprisonment or with fine or with both [Sec 167].
9. Disclosure of protected or confidential information by a public servant or any person engaged in the execution of the ITO, 1984.	Maximum 6 months imprisonment, or with fine [Section 168].

2.11 RELEVANT STATUTORY DEFINITIONS & IMPORTANT CONCEPTS

1. Agricultural income [Section 2(1)]: "agricultural income" means –

- (a) any income derived from any land in Bangladesh and used for agricultural purposes:
 - (i) by means of agriculture; or
 - (ii) by the performance of any process ordinarily employed by a cultivator to render marketable the produce of such land; or
 - (iii) by the sale of the produce of the land raised by the cultivator in respect of which no process, other than that to render the produce marketable, has been performed; or
 - (iv) by granting a right to any person to use the land for any period; or
- (b) any income derived from any building which
 - (i) is occupied by the cultivator of any such land as is referred to in sub-clause (a) in which any process is carried on to render marketable any such produce as aforesaid;

- (ii) is on, or in the immediate vicinity of such land; and
 - (iii) is required by the cultivator as the dwelling house or store-house or other out-house by reason of his connection with such land.
2. **Annual Value [Section 2(3)]:** "annual value" shall be deemed to be—
 - (a) in relation to any property let out –
 - (i) the sum for which property might reasonably be expected to let from year to year and any amount received by letting out furniture, fixture, fittings etc.; or
 - (ii) where the annual rent in respect thereof is in excess of the sum referred to in paragraph (i), the amount of the annual rent.
 3. **Appellate Joint Commissioner [Section 2(4)]:** "Appellate Joint Commissioner" means a person appointed to be an Appellate Joint Commissioner of Taxes under section 3 [and includes an Appellate Additional Commissioner of Taxes] [and also a person appointed to hold current charge of an Appellate Joint Commissioner of Taxes].
 4. **Assessee [Section 2(7)]:** "Assessee", means a person by whom any tax or other sum of money is payable under this Ordinance, and includes—
 - (a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable, or of the amount of refund due to him or to such other person;
 - (b) every person by whom a minimum tax is payable under this Ordinance;
 - (c) every person who is required to file a return under section 75, section 89 or section 91;
 - (d) every person who desires to be assessed and submits return under this Ordinance; and
 - (e) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance;
 5. **Assessment [Section 2(8)]:** "assessment", with its grammatical variations and cognate expressions, includes re-assessment and additional or further assessment;
 6. **Assessment Year [Section 2(9)]:** "assessment year" means the period of twelve months commencing on the first day of July every year; and includes any such period which is deemed, under the provisions of this Ordinance, to be assessment year in respect of any income for any period;
 7. **Business [Section 2(14)]:** "business" includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;
 8. **Capital asset [Section 2(15)]:** "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—
 - (a) any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purposes of his business or profession; and
 - (b) personal effects, that is to say, movable property (including wearing apparel, jewellery, furniture, fixture, equipment and vehicles), which are held exclusively for personal use by, and are not used for purposes of the business or profession of the assessee or any member of his family dependent on him.
 9. **Charitable Purpose [Section 2(16)]:** "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any object of general public utility;
 10. **Child [Section 2(18)]:** "child", in relation to any individual, includes a step-child and an adopted child of that individual;

- 11. Company [Section 2(20)]:** "Company" means a company as defined in [the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994)] and includes –
- (a) a body corporate established/constituted by or under any law for the time being in force;
 - (b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
 - (bb) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 (VII of 1913) or the Companies Act, 1994 (VIII of 1994);
 - (bbb) any association or body incorporated by or under the laws of a country outside Bangladesh; and;
 - (c) any foreign association/body, [not incorporated by or under any law], which the Board may, by general/special order, declare to be a company for the purposes of this Ordinance;
- 12. Deputy Commissioner of Taxes [Section 2(23)]:** "Deputy Commissioner of Taxes" means a person appointed to be a Deputy Commissioner of Taxes under section 3, and includes a person appointed to be a Transfer Pricing Officer, an Assistant Commissioner of Taxes, an Extra Assistant Commissioner of Taxes and a Tax Recovery Officer;
- 13. Dividend [Section 2(26)]:** "Dividend" includes—
- (a) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;
 - (b) any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;
 - (c) any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalized or not;
 - (d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalized or not;
 - (dd) any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under the Companies Act, 1994 (VIII of 1994);
 - (ddd) any distribution of profit of a mutual fund or an alternative investment fund.
 - (e) any payment by a private company of any sum (whether representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profit;
- but does not include –
- (i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share including preference share for full cash consideration, or redemption of debentures or debenture-stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
 - (ii) any advance or loan made to a shareholder in the ordinary course of its business, where the lending of money is a substantial part of the business of the company;
 - (iiia) any bonus share issued by a company.
- 14. Employer [Section 2(27)]:** "employer" includes a former employer;

15. **Employee [Section 2(28)]:** "employee", in relation to a company, includes the managing director, or any other director or other person, who irrespective of his designation, performs, any duties or functions in connection with the management of the affairs of the company;
16. **Fair Market Value [Section 2(30)]:** "fair market value" means, in relation to capital asset –
- (a) the price which such asset would ordinarily fetch on sale in the open market on the relevant day, and, where such price is not ascertainable, the price which the Deputy Commissioner of Taxes may, with the approval in writing of the Inspecting Joint Commissioner, determine;
 - (b) the residual value received from the lessee in case of an asset leased by a financial institution having license from the Bangladesh Bank on termination of lease agreement on maturity or otherwise subject to the condition that such residual value plus amount realized during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution.
17. **Fees for Technical Services [Section 2(31)]:** "fees for technical services" means any consideration (including any lump sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of services of technical or other personnel) but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient, or consideration which would be income of the recipient classifiable under the head "Salaries";
18. **Income [Section 2(34)]:** "income" includes –
- (a) any income, receipts, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance;
 - (b) any amount which is subject to collection or deduction of tax at source under any provision of this Ordinance
 - (c) any loss of such income, profits or gains;
 - (d) the profits and gains of any business of insurance carried on by a mutual insurance association computed in accordance with paragraph 8 of the Fourth Schedule;
 - (e) any sum deemed to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of this Ordinance;
 - (f) any amount on which a tax is imposed;
 - (g) any amount which is treated as income under any provision of this Ordinance.
19. **Income Year [Section 2(35)]:** "income year", means:
- (a) the period beginning with the date of setting up of a business and ending with the thirtieth day of June following the date of setting up of such business;
 - (b) the period beginning with the date on which a source of income newly comes into existence and ending with the thirtieth day of June following the date on which such new source comes into existence;
 - (c) the period beginning with the first day of July and ending with the date of discontinuance of the business or dissolution of the unincorporated body or liquidation of the company, as the case may be;
 - (d) the period beginning with the first day of July and ending with the date of retirement or death of a participant of the unincorporated body;
 - (e) the period immediately following the date of retirement, or death, of a participant of the unincorporated body and ending with the date of retirement, or death, of another

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participant or the thirtieth day of June following the date of the retirement, or death, as the case may be;

- (f) in the case of bank, insurance or financial institution or any subsidiary thereof the period of twelve months commencing from the first day of January of the relevant year; or
- (g) in any other case the period of twelve months commencing from the first day of July of the relevant year;"

"Provided that the DCT may allow a different financial year for a company which is a subsidiary, including a subsidiary thereof, or a holding company of a parent company incorporated outside Bangladesh or a branch or liaison office thereof, if such company requires to follow a different financial year for the purpose of consolidation of its accounts with the parent company;"

20. Interest [Section 2(38)]: "Interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilized;

21. Market Value [Section 2(40)]: "market value", in respect of agricultural produce, means:

- (a) where such produce is ordinarily sold in the market in its raw state or after application to it of any process employed by a cultivator to render it fit to be taken to the market, the value calculated according to the average price at which it has been sold during the year previous to that in which the income derived from such produce first becomes assessable;
- (b) where such produce is not ordinarily sold in the market in its raw state, the aggregate of -
 - (i) the expenses of cultivation;
 - (ii) the land development tax or rent paid for the lands in which it was grown; and
 - (iii) such amount as the Deputy Commissioner of Taxes finds, having regard to the circumstances of each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce;

22. Non-resident [Section 2(42)]: "non-resident" means a person who is not a resident;

23. Perquisite [Section 2(45)]: "perquisite" means -

- (i) any payment made to an employee by an employer in the form of cash or in any other form excluding basic salary, festival bonus, incentive bonus not exceeding ten percent of disclosed profit of relevant income year, arrear salary, advance salary, leave encashment or leave fare assistance and overtime, and
- (ii) any benefit whether convertible into money or not, provided to an employee by an employer, called by whatever name, other than contribution to a recognized provident fund, approved pension fund, approved gratuity and approved superannuation fund;

24. Person [Section 2(46)]: "person" includes an individual, a firm, an association of persons, a Hindu undivided family, a trust, a fund, a local authority, a company, an entity and every other artificial juridical person;

25. Profits in lieu of salary [Section 2(50)]: "profits in lieu of salary" includes -

- (a) the amount of compensation due to, or received by, an assessee from his employer at, or in connection with, the termination of, or the modification of any terms and conditions relating to, his employment; and
- (b) any payment due to, or received by, an assessee from a provident or other fund to the extent to which it does not consist of contributions by the assessee and the interest on such contributions;

26. **Recognized Provident Fund [Section 2(52)]:** "recognized provident fund" means a provident fund which has been, and continues to be, recognized by the Commissioner in accordance with the provisions of Part B of the First Schedule;
27. **Resident [Section 2(55)]:** "resident", in respect of any income year, means—
- (a) an individual who has been in Bangladesh—
 - (i) for a period of, or for periods amounting in all to, 182 days or more in that year; or
 - (ii) for a period of, or periods amounting in all to, 90 days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, 365 days or more during four years preceding that year;
 - (b) a Hindu undivided family, firm or other association of persons, the control and management of whose affairs is situated wholly or partly in Bangladesh in that year; and
 - (c) a Bangladeshi company or any other company the control and management of whose affairs is situated wholly in Bangladesh in that year;
28. **Royalty [Section 2(56)]:** "royalty" means consideration (including any lump sum consideration but excluding any consideration which is classifiable as income of the recipient under the head "Capital gains") for—
- (a) transfer of all or any rights, including the granting of a license in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (b) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (c) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;
 - (d) the imparting of any information concerning technical, industrial, commercial, or scientific knowledge, experience or skill;
 - (e) the transfer of all or any rights, including granting of a license, in respect of any copyright, literary, artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for sale, distribution or exhibition of cinematograph films; or
 - (f) the rendering of any services in connection with any of the aforesaid activities;
29. **Salary [Section 2(58)]:** "salary" includes—
- (a) Any pay or wages;
 - (b) any annuity, pension or gratuity;
 - (c) any fees, commission, allowances, perquisites or profits in lieu of, or in addition to salary or wages;
 - (d) any advance of salary;
 - (e) any leave encashment.
30. **Tax [Section 2(62)]:** "tax" means the income tax and includes any additional tax, excess profit tax, penalty, interest, fee or other charges leviable or payable under this Ordinance;
31. **Tax Day [Section 2(62A)]:** "Tax Day" means—
- (i) in the case of an assessee other than a company, the thirtieth day of November following the end of the income year;
 - (ii) in the case of a company, the fifteenth day of the seventh month following the end of the income year; or the fifteenth day of September following the end of the income year where the said fifteenth day falls before the fifteenth day of September.

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- (iii) the next working day following the Tax Day if the day mentioned in sub-clauses (i) and (ii) is a public holiday;
32. **Total income [Section 2(65)]:** "total income" means the total amount of income referred to in section 17 computed in the manner laid down in this Ordinance, and includes any income which, under any provision of this Ordinance, is to be included in the total income of an assessee;
33. **Transfer [Section 2(66)]:** "transfer", in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishment of any right therein, but does not include-
- any transfer of the capital asset under a gift, bequest, will or an irrevocable trust;
 - any distribution of the assets of a company to its shareholders on its liquidation; and
 - any distribution of capital assets on the dissolution of a firm or other association of persons or on the partition of a Hindu undivided family;
34. **Year [Section 2(69)]:** "year" means a financial year.

KEY POINTS

- Income tax is a tax on income
- The rate of income tax is determined by the government in the National Parliament through the Finance Act.
- Income tax ensures –
 - revenue collection for government
 - re-distribution of income
 - increase in savings
 - increase in capital investment
 - economic development
- The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984 through Tax Holiday Scheme, Investment Allowance, Accelerated Depreciation Allowance etc.
- Accelerated Depreciation is allowed at the rate of 100% in first year for specified areas, and 80% in first and 20% in the second year for industries established in other areas.
- Income tax encourage people to spend in certain social development program as spending in certain areas are exempted from tax payment like contribution to president's / prime minister's relief fund.
- The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc.
- NBR can issue certain circulars (SRO) regarding income tax as and when necessary.
- Taxpayers can submit tax return under 'universal self-assessment' scheme.
- The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all taxes including income tax.

Multiple choice questions:

1. Income tax is a –
 - (a) Direct tax
 - (b) Indirect tax
 - (c) Proportionate tax
 - (d) Progressive tax
2. Income tax is charged on the total income of a person in the –
 - (a) Same income year
 - (b) Assessment year
 - (c) Year assessee like to pay
 - (d) Year decided by the tax authority
3. Tax Holiday Scheme states that –
 - (a) Tax is exempted for certain product
 - (b) An entity shall be exempted from tax
 - (c) No tax is applicable for certain business
 - (d) Tax is exempted for specific time period
4. Investment allowance is given on the investment in new machineries @ –
 - (a) 15%
 - (b) 20%
 - (c) 25%
 - (d) 30%
5. The Income Tax Ordinance, 1984 came into force on –
 - (a) 1st January, 1979
 - (b) 1st July, 1984
 - (c) 1st July, 1994
 - (d) 1st January, 1984
6. For the assessment year 2017 – 18, minimum taxable income for a woman is –
 - (a) Tk. 2,20,000
 - (b) Tk. 3,00,000
 - (c) Tk. 3,50,000
 - (d) Tk. 2,75,000
7. In the Income Tax Ordinance, 1984, tax credit income has been discussed in –
 - (a) Fifth schedule – Part A
 - (b) Fifth schedule – Part B
 - (c) Sixth schedule – Part A
 - (d) Sixth schedule – Part B
8. "Taxation Enquiry Commission" has been formed in –
 - (a) 1976
 - (b) 1984
 - (c) 1990
 - (d) 1994
9. As per the Income Tax Ordinance, 1984 "person" includes the followings, except –
 - (a) individual
 - (b) hindu undivided family
 - (c) company
 - (d) none of the above

Bangladesh Income Tax - Theory and Practice

10. How many sections are there in Income Tax Ordinance, 1984 –

- (a) 150
- (b) 157
- (c) 180
- (d) 187

Identify the following statements as either true (T) or false (F):

1. Accelerated depreciation allowance is @ 100% in first year for all business set up.
2. Finance Act is issued in an annual budget.
3. Some losses of one head can be set off against positive incomes under other head.
4. Income year is the financial year immediately after the assessment year.
5. An individual residing less than 182 days in the income year cannot be a resident assessee.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

Question 2 – 1: Define Income Tax and identify some characteristics of taxes based on your definition.

Question 2 – 2: Explain the role of income tax in economic development of Bangladesh.

Question 2 – 3: State the scope of Bangladesh Income Tax Law.

Question 2 – 4: “Bangladesh inherited a system of taxation from its past British and Pakistani rulers” – explain the statement in light of history of Bangladesh Income Tax Law.

Question 2 – 5: Explain the special features of the Bangladesh income tax law.

Question 2 – 6: Explain the meaning of Income Year for different types of assessee.

Question 2 – 7: State the rules regarding determination of residential status of an assessee as per section 2(55) of Income Tax Ordinance, 1984.

Question 2 – 8: Write short note on:

- (a) Agricultural Income as per ITO, 1984
- (b) Profit in lieu of Salary as per ITO, 1984
- (c) Company as per ITO, 1984
- (d) Perquisite as per ITO, 1984

Answers

Multiple choice questions		True/False
1. a	6. b	1. F
2. b	7. d	2. T
3. d	8. a	3. T
4. b	9. d	4. F
5. b	10. d	5. F

Self review 2 - 1:

(a) Income tax is a tax on income. It is one tax and not a collection of taxes of different items of income and assessment to income tax is one whole and not a group of assessments of different items of income.

(b) Characteristics of Income Tax -

- (i) It is a direct tax.
- (ii) The levy of Income tax is regulated by Income Tax Ordinance XXXVI of 1984.
- (iii) It is charged on the total income of an income year of a person in an assessment year.

(c) Objectives of Income Tax -

- (i) Income tax is a major source of revenue for the government
- (ii) This is possible by taxing rich people heavily and to confer benefit to the poorer section through progressive income tax
- (iii) Income tax system encourages people to save through providing tax credit facilities on investment allowance.

Self review 2 - 2:

The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance - 1984. Some of the provisions are as following -

1. Tax Holiday Scheme
2. Investment allowance
3. Accelerated Depreciation Allowance
4. Tax incentives for Small & Cottage Industries
5. Tax exemptions in certain expenditures

CHAPTER - 3

BASICS OF INCOME TAX

LEARNING OBJECTIVES

After studying Chapter 3, you shall be able to understand:

- ⊕ the meaning of income year and assessment year
- ⊕ identification of income year and assessment year
- ⊕ importance of income year and assessment year
- ⊕ the meaning of 'assessee' and its classification
- ⊕ residential status of assessee and its impact
- ⊕ rules regarding determination of residential status
- ⊕ effect of residential status in assessment of income
- ⊕ charge of income tax with applicable rates

3.1 INCOME YEAR

The general rule of taxability is that the tax is levied in each financial year commencing on 1st July (known as assessment year in the scheme of the Income tax Ordinance, 1984) in respect of income earned in the "Income year". Section 2(35) of the ITO, 1984 indicates income year as the period for which the total income of an assessee (for bank, insurance financial institution or any subsidiary thereof January to December; and for other assessee's July to June) is calculated. The income tax amount is paid in the next fiscal year of the income year and is known as assessment year. Thus, if the income year is 2016-17, assessment year will be 2017 - 18.

3.1.1 Determination of the Income Year:

According to Section 2(35) of the ITO, 1984; "income year", means—

- (i) the period beginning with the date of setting up of a business and ending with the thirtieth day of June following the date of setting up of such business; such as if a business setting up date is September 01, 2016 the income year will be 2016-17 ending with 30th June, 2017 (i.e. period covering 01.09.16 to 30.06.17);
- (ii) the period beginning with the date on which a source of income newly comes into existence and ending with the thirtieth day of June following the date on which such new source comes into existence; such as if a source of income newly comes into existence (e.g. salary income of an assessee) on January 01, 2017 the income year will be 2016-17 ending with 30th June, 2017 (i.e. period covering 01.01.17 to 30.06.17);
- (iii) the period beginning with the first day of July and ending with the date of discontinuance of the business or dissolution of the unincorporated body or liquidation of the company, as the case may be; such as if a company goes for liquidation effective from December 31, 2016 the income year will be 2016-17 (i.e. period covering 01.07.16 to 31.12.16);
- (iv) the period beginning with the first day of July and ending with the date of retirement or death of a participant of the unincorporated body; such as, if a participant of the unincorporated body dies or retires on 31st March 2017, the income year will be 2016-17 (i.e., period covering 01.07.16 to 31.03.17);

- (v) the period immediately following the date of retirement, or death, of a participant of the unincorporated body and ending with the date of retirement, or death, of another participant or the thirtieth day of June following the date of the retirement, or death, as the case may be;
- (vi) in the case of bank, insurance or financial institution the period of twelve months commencing from the first day of January of the relevant year; i.e. January 01 to December 31 of a year.
- (vii) in any other case the period of twelve months commencing from the first day of July of the relevant year e.g. July 01, 2016 to June 30, 2017.
[Provided that the DCT may allow a different financial year for a company which is a subsidiary, including a subsidiary thereof, or a holding company of a parent company incorporated outside Bangladesh or a branch or liaison office thereof, if such company requires to follow a different financial year to consolidate its accounts with the parent company]

3.1.2 Importance of Income Year:

1. **Computation of Total Income:** An assessee has to pay tax on total income earned in the income year. Income earned in the previous or subsequent years to the income year will not be considered to compute total income of an income year.
2. **Investment Allowance:** An assessee will avail tax credit facilities for an income year only on the amount invested in that income year.
3. **Residential status:** Residential status of an assessee is determined on the basis of his stay in the income year, not in the assessment year.
4. **Submission of accounts:** The date of submitting the accounts of an assessee is determined on the basis of income year.

3.2 ASSESSMENT YEAR

According to Section 2(9) of the ITO, 1984; the term "Assessment Year" means the period of twelve months commencing on the first day of July every year. Thus, the assessment year always begins on 1st July and ends on 30th June every year. This period is also known as the financial year. Accordingly, it is the current financial year in which income of the immediately preceding year (known as income year) is assessed. From the following example, we can see the determination of assessment year:

	Income year	Assessment year
1.	01.01.15 to 31.12.15	2016 - 2017
2.	01.07.16 to 30.06.17	2017 -2018

3.2.1 Exceptions to the rule of Assessment Year:

Generally, income is taxed in the subsequent year to the income year. But, in certain cases, to protect the interests of revenue, the income is taxed in the year of earning itself. Thus, in those cases the assessment year and the income year are the same. The exceptions to the normal rule of assessment year are discussed as under:

1. **Income of discontinued business [Section 89(2)]:** Where any business or profession is discontinued in any assessment year, the income of the period from the expiry of the last income year up to the date of such discontinuance may be charged to tax in that assessment year.
2. **Persons leaving Bangladesh [Section 91(2)(b)]:** When it appears to the Assessing Officer that an individual may leave Bangladesh and has no intention to return, the

total income of such individual for the period from the expiry of the income year in relation to the current assessment year up to the probable date of his departure from Bangladesh is chargeable to tax in current assessment year itself.

3. **Income of non-resident shipping companies [Section 102(2)]:** Section 102(2) of the ITO, 1984, provides for the taxation of income of non-resident shipping companies in the year in which they earn their income in Bangladesh, provided that such companies do not have any representative here.

3.2.2 Importance of Assessment year:

1. **Computation of Tax Liability:** The tax liability of an income year is computed on the basis of the rates applicable in the assessment year.
2. **Tax exemption and tax credit facilities:** Tax exemption and tax credit facilities are to be considered on the basis of the provisions applicable for an assessment year.

So, from the above discussion it is clear that, the concept of income year and assessment year is very significant to compute the correct amount of tax.

SELF REVIEW 3 – 1

(a) Define Income year.

(b) How do you determine income year for a business newly set up in a financial year?

3.2.3 A Brief Summary of Income and Assessment Year with examples:

From the above discussions, we can sum up with following summaries regarding the identification of income year and assessment year for an assessee:

- a. For bank, insurance or financial institution income year will be the period covering twelve months commencing from the first day of January of the relevant year; i.e. English calendar year (January 01 to December 31) of a year.
- b. For other assessee's income year will be the period covering July to June. Here the income year may consist of less than twelve months under certain circumstances but will not exceed twelve months.

3.3 DEFINITION OF ASSESSEE

Assessee is a person who is liable to pay any sum under the Income Tax Ordinance, 1984 or in respect of whom the proceedings have been initiated under this Ordinance. According to Section 2(7) of the ITO, 1984, the term "Assessee" includes:

- (a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable, or of the amount of refund due to him or to such other person;
- (b) every person by whom a minimum tax is payable under this Ordinance;
- (c) every person who is required to file a return under section 75, 89 or 91;
- (d) every person desires to be assessed and submits return under this Ordinance; and
- (e) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance;

The term "person" includes an individual, a firm, an association of persons, a hindu undivided family, a trust, a fund, a local authority, a company, an entity and every other artificial judicial person. [Section 2(46)]

SELF REVIEW 3 – 2

Determine the income year and the assessment year for the following independent situations:

- (a) Nitol Motors started their business on 01.08.2016.
- (b) Prime Bank Limited prepared its annual report covering the period from January 01, 2016 to December 31, 2016.
- (c) Vertex Fashions closed all their business operations on March 31, 2017 permanently.

3.3.1 Classification of Assessee:

According to Section 2(46) of the ITO, 1984, assessee can be classified into two broad categories:

1. On the basis of person, and
2. On the basis of Residential Status

3.3.1.1 Classification of Assessee – on the basis of person:

According to the provisions of the ITO, 1984, assessee is a person who is liable to pay any sum under the Income Tax Ordinance, 1984 or in respect of whom the proceedings have been initiated under this Ordinance. The term person includes:

- i) **Individual:** An individual is a natural person including male, female, major, minor or even a lunatic. It refers to human being. However, the income of a minor or a lunatic can only be assessed in the hands of the legal guardian or manager acting as a deemed assessee [Shridhar Udai Nairain v. CIT, (1962) 45 ITR 577(All.)].
- ii) **Firm:** "Firm" has the same meaning as assigned to it in the Section IX of the Partnership Act, 1932. [Section 2(32)]
- iii) **Association of Persons (AOP):** An association of persons is the one in which two or more persons join for a common purpose or common action with a view to produce income, profits or gains. It need not be on the basis of a contract. Therefore, if two or more persons join hands to carry on a business but do not constitute a partnership, they may be assessed as an AOP.
- iv) **Hindu Undivided Family (HUF):** The expression "Hindu Undivided Family" is not defined by the Income Tax Ordinance, 1984 and is therefore understood in context of the definition of a Joint Hindu Family under the Hindu Law. A HUF is a coparcenary or tenancy in common consisting of all male persons descended from a common ancestor of stated degree of lineal proximity. It also includes, for certain limited purposes, wives and unmarried daughters of all such male members. They are joint in Mess, Worship and Residence; the family, as a whole is a unit of assessment.
- v) **Trust:** "Trust" means the Trust constituted by the Deed of Trust in accordance with the provisions of the Trust Act 1882 (Act II of 1882). A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.
- vi) **Fund:** "Fund" means any fund established or constituted in Bangladesh in accordance to any relevant law or rule or as declared by the SEC as alternative investment fund from time to time.
- vii) **Local Authority:** The term "Local Authority" is not defined by the ITO, 1984. Generally it includes municipal corporation, district board, cantonment board or other authority legally entitled to or entrusted by the government

- viii) **Company:** "Company" means a company as defined in the Companies Act, 1913 or 1994 and includes any nationalized banking or other financial institution, insurance body and industrial or business enterprise, any association or body incorporated by or under any law of Bangladesh or Outside Bangladesh. [Section 2(20)]
- ix) **Entity:** Generally the term "entity" means a lawful or legally standing unit which has legal capacity to (1) enter into agreements or contracts, (2) assume obligations, (3) incur and pay debts, (4) sue and be sued in its own right, and (5) to be accountable for illegal activities.
- x) **Artificial Judicial Person:** These are entities which are not natural persons but are separate entities in the eyes of law. It also includes all other artificial persons, with a juristic personality, if they do not fall within any of the preceding categories of persons e.g. Dhaka University, BRTC etc.
- xi) **Person with disability:** According to section 2(46A), "person with disability" means an individual registered as person with disability under section 31 of the Bangladesh Act no. 39, of 2013.

Example: Lets identify the status of the following entity as assessee: (i) Dhaka University, (ii) Shohag Paribahan Pvt. Ltd. (iii) Prime Bank Limited, (iv) X and Y who are legal heirs of Z (Z died in 2009 and X and Y carry on his business without entering into partnership), (v) Unique Enterprises, a firm consisting of A, B and C, (vi) A hindu joint family consisting of P, Mrs. P and their son S, (vii) Dhaka City Corporation, (viii) Comilla Cantonment Board.

Here, Dhaka University i.e., (i) is an Artificial Judicial Person, likewise, (ii) is a Company, (iii) is a Company, (iv) is an Association of Persons, (v) is a Firm, (vi) is a Hindu Undivided Family, (vii) is a Local Authority, (viii) is a Local Authority.

3.3.1.2 Classification of Assessee – on the basis of residential status:

According to the residential status, an assessee can be classified into two categories:

- i) **Resident:** An individual will be a resident in any income year if he fulfills any of the conditions stated in Section 2(55) of the ITO, 1984. Such as, he should stay for a period of 182 days or more in that year.
- ii) **Non-resident:** An individual will be declared a non-resident as per Section 2(42) in any income year if he doesn't fulfill any of the conditions stated in Section 2(55) of the ITO, 1984. As per the citizenship, a non-resident can also be divided into following two categories: (a) Non-resident Bangladeshi; and (b) Non-resident Foreigner.

3.3.2 Residential Status of Assessee:

Residential status refers either to the period of stay of an assessee in Bangladesh or degree of control or management of the affairs of an assessee during the income year. This has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee. For example, a non-resident will not be taxed on income earned outside Bangladesh while a resident is taxed on global income. In Bangladesh, according to the provisions stated in Section 2(55) or 2(42) of the ITO, 1984 it is determined whether an assessee is resident or non-resident. Such residential status is determined only by the specific provisions of this ordinance but not by any provision of other laws of the country. One must be kept in mind the following rules to determine residential status:

1. **Residential status is determined for each category of persons separately** e.g. there are separate set of rules for determining the residential status of an individual and separate rules for firms, companies etc.

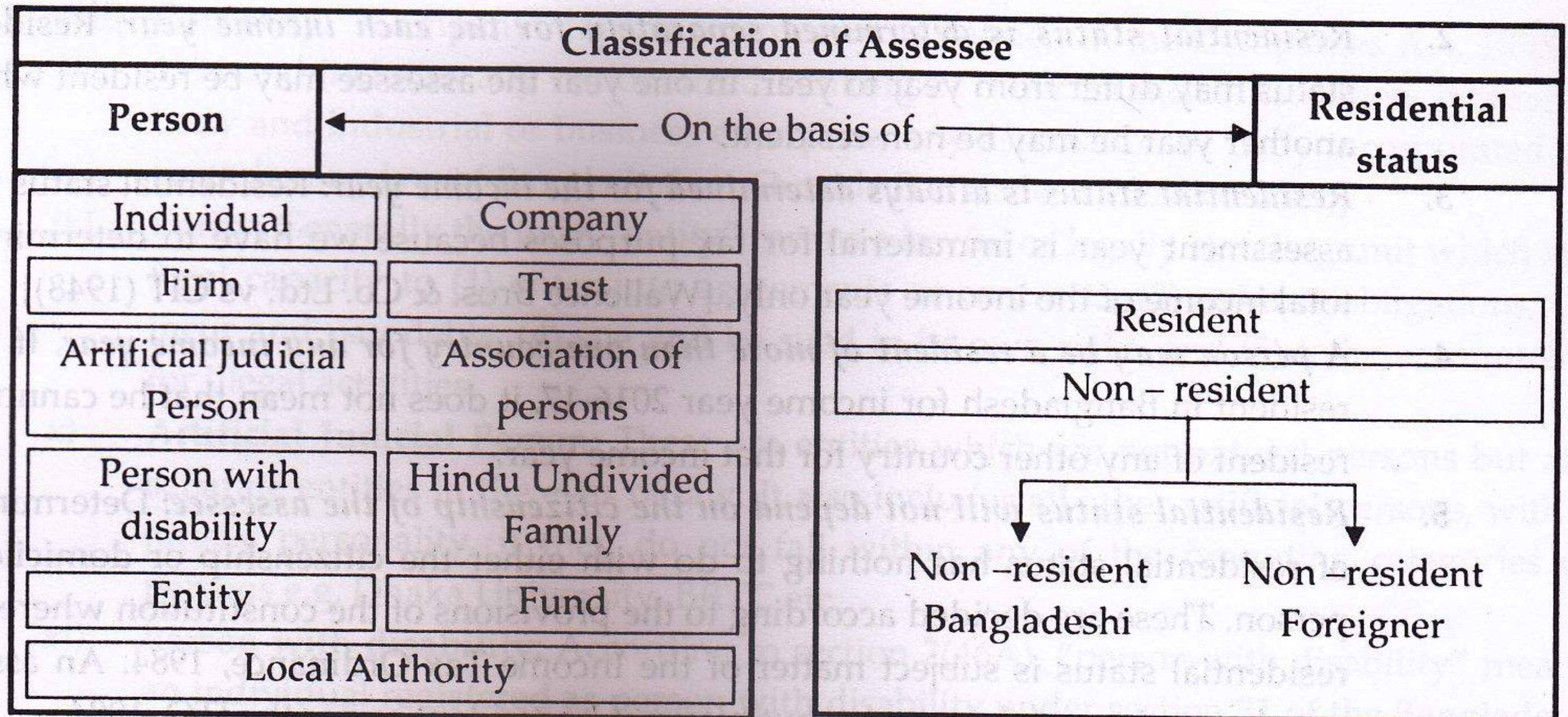
2. **Residential status is determined separately for the each income year:** Residential status may differ from year to year. In one year the assessee may be resident while in another year he may be non-resident.
3. **Residential status is always determined for the income year:** Residential status in the assessment year is immaterial for tax purposes because we have to determine the total income of the income year only. [Wallence Bros. & Co. Ltd. vs CIT (1948)]
4. **A person may be a resident of more than one country for any income year.** If Y is a resident in Bangladesh for income year 2016-17, it does not mean that he cannot be a resident of any other country for that income year.
5. **Residential status will not depend on the citizenship of the assessee:** Determination of residential status has nothing to do with either the citizenship or domicile of a person. These are decided according to the provisions of the constitution whereas the residential status is subject matter of the Income Tax Ordinance, 1984. An assessee may be a citizen of the country but may not be resident as per the ITO, 1984.
6. **Burden of proving the residential status lies with the assessee:** The burden of proof to be a resident usually lies with the assessee and he must place all relevant facts, evidence and material before the income tax authorities to substantiate his claim. [V. Vr. N. M. Subbayya Chettiar vs. CIT (1951) 019 ITR 0168 (SC)]

3.3.2.1 Effect of Residential Status in Determining Tax Liabilities:

Determination of residential status of an assessee has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee. In this regard we can consider the following issues:

1. **To determine the amount of total income:** Determination of total income is different for residents and non-residents. A resident considers global income as his total income but a non-resident doesn't consider income from other countries in his total income.
2. **To determine minimum limit of taxable income:** A resident and non-resident Bangladeshi has to pay tax if his taxable income is more than Tk. 250,000 as per the ITO, 1984 (in case of women, elderly citizens being more than 65 years old the limit is Tk. 300,000, for disable persons the limit is Tk. 400,000 and for Gazetted wounded freedom fighters the limit is Tk. 425,000). But for a non-resident foreigner such minimum limit is not applicable.
3. **Tax rate:** For a resident and non-resident Bangladeshi tax is calculated using the rates applicable for various levels of income. Such as, for first Tk. 250,000 @ 0%, for next Tk. 400,000 @ 10%. But a non-resident foreigner has to pay at maximum rate [@ 30%].
4. **Income tax rebate:** A resident and non-resident Bangladeshi assessee gets income tax rebate on investment allowance and on tax exempted income from gross tax liability. But, for a non-resident foreigner no tax rebate is applicable.
5. **Tax liability:** The average tax rate applicable for a resident and non-resident Bangladeshi is less than that of a non-resident foreigner since tax is calculated using different lower tax rates (such as 10%, 15%, 20%, 25% & 30%). But a non-resident foreigner has to pay tax at maximum rate i.e. @ 30%.

Thus, Determination of residential status of an assessee has a significant bearing on the tax liability as total income, taxable income and tax rate are found to vary according to the residential status of an assessee.



3.3.2.2 Rules for determining Residential Status of an Assessee:

For determining the residential status of an assessee, Section 2(55) and 2(42) of the ITO, 1984 are important. If an assessee is not classified as 'resident' as per Section 2(55), then within the meaning of Section 2(42) he is classified as non-resident. On the basis of residence, assessee is classified into two categories, Resident and Non-resident

The residential status of an individual depends mainly on the duration of his stay in Bangladesh. In case of a firm or company, it depends on the location of its management or control during the relevant income year. In the ITO 1984, the following rules have been depicted to determine the residential status of an assessee:

a) Residential Status of an Individual:

According to Section 2(55)(a) of the ITO 1984, an individual will be a resident in any income year if he fulfills any of the following two conditions:

- ❖ if he stays in Bangladesh for a period of, or for periods amounting in all to, **182** days or more in that year; or
- ❖ for a period of, or periods amounting in all to, **90** days or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, **365** days or more during four years preceding that year;

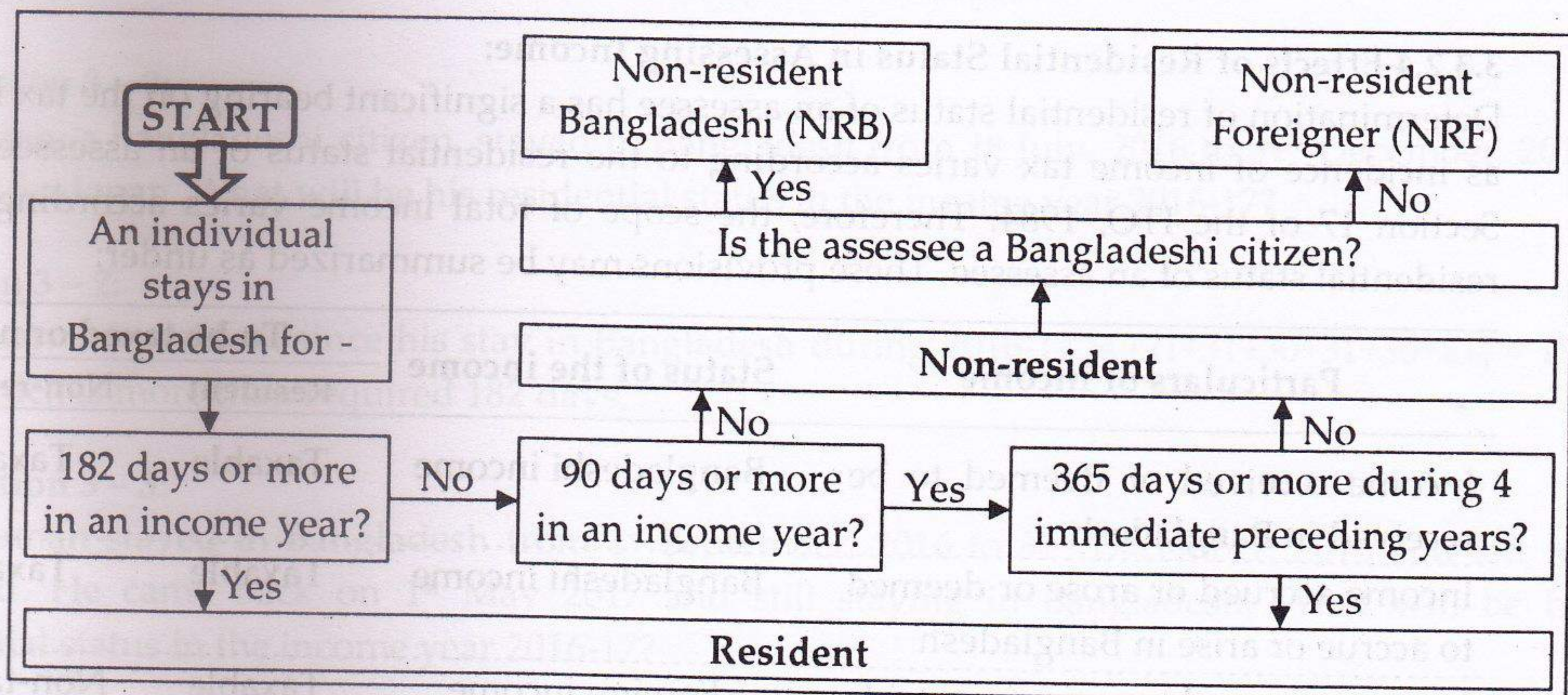
If none of the above two conditions are satisfied, such individual is **non-resident** in Bangladesh during that income year as per Section 2(42).

Points to be remembered:

- ❖ Relevant income year is the year for which the residential status is being determined.
- ❖ In computing the period of stay in Bangladesh, it is not necessary that the stay should be for a continuous period. What is to be seen is the total number of days stay in Bangladesh during the relevant income year. Moreover, visit to Bangladesh during the four preceding years might also be regular or irregular in the similar manner.
- ❖ It is also not necessary that the stay should be only at one place. E.g., he may stay at Dhaka for 90 days and then go out of Bangladesh. On return in the same income year, he may stay at Chittagong for 120 days during the same income year. His total stay in Bangladesh will be 210 days for the income year.
- ❖ Generally, in computing the period of 182 days, the day he enters Bangladesh and the day he leaves Bangladesh should both be treated as stay in Bangladesh.

However, in borderline cases where stay in Bangladesh is near about 182 days his stay in Bangladesh has to be calculated on hourly basis and a total of 24 hours will be taken as one day. For example, if a person is in Bangladesh for 82 days and 6 hours and then again he comes to Bangladesh for 20 days and 20 hours, his stay in Bangladesh will be taken as 103 days.

- ❖ In a question where hour of entry and departure is not given, we should take both day of entry and day of exit as stay in Bangladesh [Ref. AAR (1997) 223 ITR 462, the Authority for Advance Ruling].
- ❖ Place and purpose of stay in Bangladesh is immaterial. Presence in territorial waters of Bangladesh would also be regarded as presence in Bangladesh.
- ❖ Official tours abroad in connection with employment in Bangladesh shall not be regarded as employment outside Bangladesh.
- ❖ A person may be resident of more than one country for any income year.
- ❖ Citizenship of a country and residential status of that country are two separate concepts. A person may be a Bangladeshi national/Citizen but may not be a resident in Bangladesh and vice versa.



[Residential status determination flowchart for individuals]

b) Residential Status of HUF, Firm and AOP:

According to Section 2(55)(b) of the ITO 1984, a Hindu undivided family, firm or other association of persons, will be a resident if the control and management of those affairs is situated wholly or partly in Bangladesh in that year. However, if the control and management are situated wholly outside Bangladesh, they will be treated as non-resident.

c) Residential Status of Company:

According to Section 2(55)(c) of the ITO 1984, a Bangladeshi company or any other company, the control and management of whose affairs is situated wholly in Bangladesh in that year will be considered as resident. If the control and management of a company is situated partly or wholly outside Bangladesh, it will be considered as non-resident.

3.3.2.3 Residential Status Determination: Summary of Rules

Category	Rules to be a Resident	Rules to be a Non-resident
Individual	Assessee is in Bangladesh in the income year for a period of -	If none of these two basic conditions are fulfilled

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	<p>Basic condition 1: 182 days or more; Or</p> <p>Basic condition 2: 90 days or more and 365 days or more during 4 years immediately preceding the income year.</p>	
HUF, AOP & Firm	If the control and management is situated wholly or partly in Bangladesh in the income year	If the control and management is situated wholly outside Bangladesh in the income year
Company	If the control and management is situated wholly in Bangladesh in the income year.	If the control and management is situated wholly or partly outside Bangladesh in the income year.

Note: The term “control and management” refers to “head and brain” which directs the affairs of policy, finance, disposal of profits and vital things concerning the management of the entity. While in the case of a firm, control and management is vested in partners, in case of an AOP it is vested in principal officer and in case of a company it is situated at the place where meetings of its board of directors are held.

3.3.2.4 Effects of Residential Status in Assessing Income:

Determination of residential status of an assessee has a significant bearing on the tax liability as incidence of income tax varies according to the residential status of an assessee as per Section 17 of the ITO, 1984. Therefore, the scope of total income varies according to the residential status of an assessee. These provisions may be summarized as under:

Particulars of income	Status of the income	To be taxed or not	
		Resident	Non-resident
Income received or deemed to be received in Bangladesh	Bangladeshi income	Taxable	Taxable
Income accrued or arose or deemed to accrue or arise in Bangladesh	Bangladeshi income	Taxable	Taxable
Income accrued or arose outside Bangladesh	Foreign income	Taxable	Non-taxable

An analysis of the above provisions would highlight the following:

- (a) Any income which is either received in Bangladesh or deemed to be received in Bangladesh is taxable in Bangladesh, irrespective of the residential status.
- (b) Any income which is either earned in Bangladesh or is deemed to be earned in Bangladesh is taxable in Bangladesh, irrespective of the residential status.
- (c) For a resident in Bangladesh all global income (local + foreign), wherever earned/received is taxable in Bangladesh.
- (d) For a non-resident, an income is taxable only if it is either earned in Bangladesh or it is received in Bangladesh.

3.3.2.5 Incidence of Tax on Non-Resident:

- a. A person who is a non-resident is liable to tax on the incomes, profits and gains which are received or deemed to have been received or are deemed to accrue or arise to him in Bangladesh;
- b. A non-resident assessee is not entitled to any sort of allowance and relief as are admissible to a resident assessee for the purpose of tax rebate;

- c. A non-resident assessee (other than Bangladeshi non-resident / foreigner) is liable to tax on his total income @ 30%.
- d. A Bangladeshi non-resident is subject to tax at normal rate, like a resident assessee.

SELF REVIEW 3 – 3

- (a) State any two characteristics of residential status of an assessee.
- (b) How do you determine residential status of a company?
- (c) What rate of tax is applicable for resident and non-resident assessee?

DETERMINATION OF THE RESIDENTIAL STATUS

Illustration 3 – 1:

Mr. Jalil, an Indian citizen, stayed in Bangladesh from 1st August, 2016 to 31st December, 2016 and left for London. What will be his residential status in the income year 2016-17?

Solution 3 – 1:

Mr. Jalil is a non-resident foreigner since his stay in Bangladesh during income year 2016-17 is $[31+30+31+30+31] = 153$ days which is less than required 182 days.

Illustration 3 – 2:

Mr. Hasan, a Bangladeshi citizen, stayed in Bangladesh from 1st July, 2016 to 31st December, 2016 and left for Japan. What will be his residential status in the income year 2016-17?

Solution 3 – 2:

Mr. Hasan is a resident since his stay in Bangladesh during 2016-17 is $[31+31+30+31+30+31] = 184$ days which is more than required 182 days.

Illustration 3 – 3:

Mr. Mannan stayed in Bangladesh from 1st September, 2016 to 31st December, 2016 and left for Trinidad. He came back on 1st May 2017 and still staying in Bangladesh. What will be his residential status in the income year 2016-17?

Solution 3 – 3:

Mr. Mannan is a resident since his stay in Bangladesh during 2016 $[30+31+30+31] = 122$ days and in 2017 from 1st May to 30th June $[31+30] = 61$ days. In total he stayed for $[122+61] = 183$ days in the income year 2016-17 which is more than required 182 days.

Illustration 3 – 4:

Arman Hossain, who was born and brought up in India, stayed in Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 4:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
July 16 – 31 days, August 16 – 31 days, April 17 – 30 days, May 17 – 31 days, and June 17 – 30 days $(31 + 31 + 30 + 31 + 30) = 153$ days	June 16: 30 days	Non-resident foreigner, as none of the condition is valid

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Illustration 3 – 5:

Jafor Hossain, who was born and brought up in India, stayed in Bangladesh for business purpose during 01.06.2016 to 30.09.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 5:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
July 16 – 31 days, August 16 – 31 days, September 16 – 30 days, April 17 – 30 days, May 17 – 31 days, June 17 – 30 days (31 + 31 + 30 + 30 + 31 + 30) = 183 days	Not required, as Condition 1 is valid	Resident, as condition 1 is valid

Illustration 3 – 6:

Belal Hossain, who was born and brought up in Bangladesh, stayed outside Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.04.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 6:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
September 16 – 30 days, October 16 – 31 days, November 16 – 30 days, December 16 – 31 days, January 17 – 31 days, February 17 – 28 days, March 17 – 31 days (30+31+30+31+31+28+31) = 212 days	Not required, as Condition 1 is valid	Resident, as condition 1 is valid

Illustration 3 – 7:

Abir Hossain, who was born and brought up in Bangladesh, stayed outside Bangladesh for business purpose during 01.06.2016 to 31.08.2016 and 01.03.2017 to 31.07.2017. Find out his residential status for the income year 2016-17.

Solution 3 – 7:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
September 16 – 30 days, October 16 – 31, November 16 – 30, December 16 – 31, January 17 – 31, February 17 – 28 days (30+31+30+31+31+28) = 181 days	2015-16: 366 days, 2014-15: 365 days, 2013-14: 365 days, 2012-13: 365 days Total = 1,461 days	Resident, as condition II is valid

Illustration 3 – 8:

Mr. Harry K. Thomas, a citizen of USA, has been staying in Bangladesh since 1st January, 2013. He left Bangladesh on 16th July, 2016 on a visit to USA and returns on 1st March, 2017. What will be his residential status in the income year 2016-17?

Solution 3 – 8:

His stay (days) in Bangladesh during the income year 2016-17 is:

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Month	July '16	Mar '17	April '17	May '17	June '17	Total
Days	16	31	30	31	30	138

His stay (days) in preceding 4 income years:

Year	2015 – 16	2014 – 15	2013 – 14	2012 – 13	Total
Days	366	365	365	181 [1.01.13 ÷ 30.06.13]	1,277

As his staying was more than 90 days in the income year 2016 - 17 and more than 365 days in the preceding 4 years, he is a resident.

Illustration 3 – 9:

Ricky Ponting, an Australian cricketer visits Bangladesh for 100 days every year since 2011 - 12:

- (a) Determine his residential status for the income year 2016-17.
- (b) Will your answer be different if he has been coming to Bangladesh for 90 days instead of 100 days every year?

Solution 3 – 9:

- (a) He is a resident as he stayed in Bangladesh for 100 days (more than required 90 days) in the income year 2016-17 and 400 days (100 × 4) (more than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16.
- (b) Yes. He will, in this case, be a non-resident foreigner as he stayed in Bangladesh for 90 days (equal to required 90 days) in the income year 2016-17 but 360 days (90 × 4) (less than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16. He doesn't fulfill any of the required conditions.

Illustration 3 – 10:

Selina Akter, a Bangladeshi citizen, for the first time left Bangladesh for higher studies on October 01, 2012. For celebrating the eid, she came to Bangladesh on October 12, 2013 and stayed for 90 days; again, she came to Bangladesh in her brother's marriage ceremony on August 15, 2014 and stayed for 68 days. She also stayed in Bangladesh for 115 days from September 17, 2015 in Bangladesh for research purpose. Finally after completing her studies she came to Dhaka on April 01, 2017. Determine her residential status for the income year 2016-17.

Solution 3 – 10:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2016-17	
April 17 – 30 days, May 17 – 31 days, June 17 – 30 days; total (30+31+30) = 91 days	2015-16 : 115 days, 2014-15 : 68 days, 2013-14: 90 days, 2012-13: (31+31+30+1)=93 days (115+68+90+93) = 366 days	Resident, as condition 2 is valid

Illustration 3 – 11:

Mr. Alex, a Canadian citizen, comes to Bangladesh for the first time during the income year 2012-13. During the income years 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17, he was in Bangladesh for 55 days, 60 days, 90 days, 150 days and 100 days respectively. Determine his residential status for the income year 2016-17.

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Solution 3 – 11:

He is a non-resident foreigner as he stayed in Bangladesh for 100 days (more than required 90 days) in the income year 2016-17 and $(55+60+90+150) = 355$ days (less than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15 and 2015-16.

Illustration 3 – 12:

Mr. Tanzi, a Japanese citizen, left Bangladesh after a stay of 10 years on 01.09.2014. During the financial year 2015-16, he came to Bangladesh for 46 days. Later, he returns to Bangladesh for one year on 01.02.2017. Determine his residential status for the income year 2016-17.

Solution 3 – 12:

During the income year 2016-17, Mr. Tanzi was in Bangladesh for $(28+31+30+31+30) = 150$ days. His staying in preceding 4 income years:

Year	2015 – 16	2014 – 15	2013 – 14	2012 – 13	Total
Days	46	63	365	365	839
	[1.07.14 – 1.09.14]				

Since second condition is fulfilled, he is a resident.

Illustration 3 – 13:

Hanshi Tanaka, a Japanese citizen, left Bangladesh on 27.09.2016 after a stay of 10 years for Business purpose. What will be his residential status for the income year 2016-17?

Solution 3 – 13:

Condition – 1	Condition – 2	Residential Status
Days of staying in BD during income year 2016-17 (01.07.16 to 30.06.17)	Days of staying in BD during four years preceding to income year 2015-16	
July 16 – 31 days, August 16 – 31 days, September 16 – 27 days $(31+31+27) = 89$ days	2015-16 : 366 days, 2014-15 : 365 days, 2013-14: 365 days, 2012-13: 365 days $(366+365+365+365) = 1461$ days	Non-resident foreigner, as none of the condition is valid

Illustration 3 – 14:

Mr. X, a Bangladeshi citizen, left Bangladesh on 22.12.2016 for the first time, to work as an official in World Bank, Washington office. Determine his residential status for the income year 2016-17.

Solution 3 – 14:

He is a resident as he stayed in Bangladesh for $(31+31+30+31+30+22) = 175$ days (more than required 90 days) in the income year 2016-17 and $(366+365+365+365) = 1,461$ days (more than required 365 days) in the preceding 4 income years i.e. 2012-13, 2013-14, 2014-15, and 2015-16.

Illustration 3 – 15:

Mr. Hasan left Bangladesh on 20th August, 2015 for employment on a work permit valid for two years, i.e. from 1st August, 2015 to 31st July, 2017. Mr. Hasan did not come to Bangladesh at any time during the year 2015 and 2016. He finally came to Bangladesh on 10th January, 2017 and did not go back. Determine his residential status for the income year 2016-17.

Solution 3 – 15:

Total number of stay in Bangladesh:

2016-17 (From 10th January, 2017 to 30th June, 2017) = $[22+28+31+30+31+30] = 172$ days.

2015-16 (From 1st July, 2015 to 20th August, 2015) = $[31+20] = 51$ days.

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2014-15 (From 1st July, 2014 to 30th June, 2015) = 365 days

2013-14 (From 1st July, 2013 to 30th June, 2014) = 365 days

2012-13 (From 1st July, 2012 to 30th June, 2013) = 365 days

Mr. Hasan is a resident since he fulfills the second condition. His staying in Bangladesh during the income year 2016-17 is 172 days which is more than required 90 days in that year, and $[51+365+365+365] = 1,146$ days during previous four years which is more than required 365 days.

Illustration 3 – 16:

Following are the particulars of Mr. Bablu's stay in Bangladesh over a period of last five years:

Year	2012 – 13	2013 – 14	2014 – 15	2015 – 16	2016 – 17
Days	40	55	182	200	94

Required:

- Determine his residential status for the income year 2016-17.
- What will happen if he stays for (i) 85 days in the year 2016-17? (ii) 80 days in the year 2015-16? (iii) 185 days in the year 2016-17 and total 360 days during last four years?

Solution 3 – 16:

- Mr. Bablu is a resident since he fulfills the second condition. His stay in Bangladesh during income year 2016-17 is 94 days which is more than required 90 days in that year, and $[40+55+182+200] = 477$ days during previous four years which is more than required 365 days.
- Mr. Bablu is a non-resident since he doesn't fulfill any of the conditions. His stay in Bangladesh during income year 2016-17 is 85 days which is less than required 90 days in that year, and although $[40+55+182+200] = 477$ days during previous four years which is more than required 365 days.
 - Mr. Bablu is a non-resident since he doesn't fulfill any of the conditions. His stay in Bangladesh during income year 2016-17 is 94 days which is more than required 90 days in that year, but $[40+55+182+80] = 357$ days during previous four years which is less than the required 365 days.
 - Mr. Bablu is a resident since he fulfills the first condition. His stay in Bangladesh during income year 2015-16 is 185 days which is more than required 182 days of the first condition.

Illustration 3 – 17:

Determine the residential status of Veronica Deliveries which is a Partnership Firm and whose

- control and management of those affairs is situated wholly in Bangladesh.
- control and management of those affairs is situated partly in Bangladesh.
- control and management of those affairs is situated wholly in outside Bangladesh.

Solution 3 – 17:

- Resident; since control and management of those affairs is situated wholly in Bangladesh.
- Resident; since control and management of those affairs is situated partly in Bangladesh.
- Non-resident; since control and management is situated wholly in outside Bangladesh.

Illustration 3 – 18:

Determine the residential status of DBL which is a Banking company in Bangladesh and whose

- control and management of those affairs is situated wholly in Bangladesh.
- control and management of those affairs is situated partly in Bangladesh.
- control and management of those affairs is situated wholly in outside Bangladesh.

Solution 3 – 18:

- (a) Resident; since control and management of those affairs is situated wholly in Bangladesh.
- (b) Non-resident; since control and management is situated partly in outside Bangladesh.
- (c) Non-resident; since control and management is situated wholly in outside Bangladesh.

Illustration 3 – 19:

Dr. Hasan Mahmood works as a professor in a university in Australia. He left Bangladesh in 2002. After 7 years of that, he first visited Bangladesh in the year 2009. After wards he visited Bangladesh every year to see his parents. The following table is providing the information about the time period he stayed in Bangladesh in different years from 2009 to 2017. Determine his residential status during these income years:

Year	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Date of entrance	16.09.10	12.10.11	11.02.13	09.12.13	01.07.14	28.12.15	15.07.16
Date of exit	28.03.11	19.03.12	14.03.13	01.03.14	28.09.14	28.06.16	12.03.17

Solution 3 – 19:

Year	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Date of entrance	16.09.10	12.10.11	11.02.13	09.12.13	01.07.14	28.12.15	15.07.16
Date of exit	28.03.11	19.03.12	14.03.13	01.03.14	28.09.14	28.06.16	12.03.17
	15+31+	20+30+		23+31+		4+31+	17+31+
Days of staying in current I/Y	30+31+	31+31+	19+14	28+1	31+31	29+31+	30+31+
	31+28+	29+19	= 33	= 83	+28 = 90	30+31	31+28
	28 = 194	= 160				+28 = 184	+12 = 241
Days of staying in previous 4 years	0	194	194+160	194+160	194+160	160+33+	33+83+
			=354	+33 =387	+33+83	83+90	90+184
					= 470	= 366	= 390
Test passed	I	N/A	N/A	N/A	II	I & II	I & II
Residential Status	Resident	Non-resident	Non-resident	Non-resident	Resident	Resident	Resident

Test – I: The assessee stays in Bangladesh for a period of, or for periods amounting in all to, one hundred and eighty-two [182] days or more in that year;

Test – II: The assessee stays for a period of, or periods amounting in all to, ninety days [90] or more in that year having previously been in Bangladesh for a period of, or periods amounting in all to, three hundred and sixty-five days [365] or more during four years preceding that year.

Illustration 3 – 20:

Mr. Jalal has earned income from various sources in the income year 2016 – 17 which are: Salary income earned and payable in Bangladesh Tk. 100,000; Profit of Tk. 40,000 from a business in London has been brought in Bangladesh. The business has been managed and controlled from London; Profit of Tk. 60,000 from a business in Singapore has not yet been brought in Bangladesh.

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The Business has been managed and controlled wholly from Singapore; and Fees for professional services of Tk. 70,000 for a consultancy in Dubai has not yet been brought in Bangladesh.

Compute total income of Mr. Jalal, assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 20:

Mr. Jalal
Income year: 2016 – 2017
Assessment year: 2017 – 2018
Computation of Total Income (Taka)

	<u>Resident</u>	<u>Non-resident</u>
1. Income earned in Bangladesh: Salary Income	100,000	100,000
2. Foreign income: Profit of business in London	40,000	-
Profit of business in Singapore	60,000	-
Fees from consultancy service in Dubai	70,000	-
Total income	<u>270,000</u>	<u>100,000</u>

Illustration 3 – 21:

Particulars of income of Mr. Jalil for the income year 2016-17 includes: Rent from a property in Dhaka received in India Tk. 40,000; Income from a business in USA controlled from Bangladesh Tk. 150,000; Income from a business in Dhaka controlled from Pakistan Tk. 180,000; Rent from a property in Canada received there but subsequently remitted to Bangladesh Tk. 60,000; Interest from deposits with a Bangladeshi bank received in Canada Tk. 20,000 and Gifts received from his parents Tk. 45,000. Compute total income of Mr. Jalil for the income year 2016 – 2017 assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 21:

Mr. Jalil
Income year: 2016 – 17
Assessment year: 2017 – 18
Computation of Total Income (Taka)

	<u>Resident</u>	<u>Non-resident</u>
1. Income earned / deemed to accrue / arise in Bangladesh:		
Rent from property in Bangladesh	40,000	40,000
Income from business in USA controlled from Bangladesh	150,000	150,000
Income from business in Dhaka controlled from Pakistan	180,000	180,000
Interest from deposits	20,000	20,000
2. Foreign income: Rent from property in Canada	60,000	-
Total income	<u>450,000</u>	<u>390,000</u>

Note: Gifts received from parents is not regarded as income.

Illustration 3 – 22:

Particulars of income of Mr. Tareq for the income year 2016-17 includes: Salary income received in Bangladesh for services rendered in Afghanistan Tk. 40,000; Income from profession in Bangladesh, but received in Nepal Tk. 150,000; Property income in South Africa (out of which Tk. 90,000 was remitted to Bangladesh) Tk. 180,000; Profits earned from business in Chittagong Tk.

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60,000; and Agricultural income in Bhutan Tk. 20,000. Compute total income of Mr. Tareq for the income year 2016 – 2017 assuming that he is a (a) Resident (b) Non-resident.

Solution 3 – 22:

Mr. Tareq
Income year: 2016 – 2017
Assessment year: 2017 – 2018
Computation of Total Income (Taka)

	<u>Resident</u>	<u>Non-resident</u>
1. Income earned / deemed to accrue / arise in Bangladesh:		
Salary income received for services rendered in Afghanistan	40,000	40,000
Income from profession in Bangladesh, but received in Nepal	150,000	150,000
Profits earned from business in Chittagong Interest	60,000	60,000
2. Foreign income: Property income in South Africa	180,000	-
Agricultural income in Bhutan	20,000	-
Total income	<u>450,000</u>	<u>250,000</u>

3.4 COMPUTATION OF TOTAL INCOME [SECTION 43]

According to Section 43 of the ITO, 1984 the following provisions are to be followed to compute the total income of an assessee for charging income tax on it:

1. For the purpose of charge of tax, the total income of an assessee shall be computed in the manner provided in this Ordinance.
2. In computing the total income of an assessee, there shall be included any exemption or allowance specified in part B of the Sixth Schedule and any income deemed to be the income of the assessee under Section 19, subject to the limits, conditions and qualifications laid down therein.
3. Where the assessee is a partner of a firm, then, whether the firm has made a profit or a loss, his share (whether a net profit or a net loss) shall be taken to be any salary, interest, commission or other remuneration payable to him by the firm in respect of the income year increased or decreased respectively by his share in the balance the profit or loss of the firm after the deduction of any interest, salary, commission or other remuneration payable to any partner in respect of the income year and such share shall be included in his total income:

Provided that if his share so computed is a loss, such loss may be set off or carried forward and set off in accordance with the provisions of section 42.

4. In computing the total income of any individual for the purpose of assessment, there shall be included –
 - (a) so much of the income of the spouse or minor child of such individual as arises, directly or indirectly,
 - i) from the membership of the spouse in a firm of which such individual is a partner;
 - ii) from the admission of the minor child to the benefits of partnership in a firm of which such individual is a partner;
 - iii) from assets transferred directly or indirectly to the spouse otherwise than by way of gift or for adequate consideration or in connection with an agreement to live apart; or

- iv) from assets transferred directly or indirectly to the minor child, not being a married daughter, by such individual otherwise than by way of gift or for adequate consideration; and
 - (b) so much of the income of any person or association of persons as arises from assets transferred, otherwise than by way of gift or for adequate consideration, to such person or association of persons by such individual for the benefit of the spouse or minor child or both.
5. All income arising to any person by virtue of a settlement or disposition whether revocable or not from assets remaining the property of the settlor or disponent, shall be deemed to be income of the settlor or disponent, and all income arising to any person by virtue of a revocable transfer of assets shall be deemed to be income of the transferor and shall be included in the total income of such person.
6. For the purpose of sub-section (5),--
- a) a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the retransfer directly or indirectly of the income or assets to the settlor, disponent or transferor, or in any way gives the settlor, disponent or transferor a right to resume power directly over the income or assets;
 - b) the expression "settlement or disposition" shall include any disposition, trust, covenant, agreement or arrangement, and the expression 5 [settlor] or disponent, in relation to a settlement or disposition, shall include any person by whom the settlement or disposition was made.

3.5 CHARGE OF INCOME TAX: DEFINITION & BASIC PRINCIPLES

Income tax is a direct tax which is charged upon a person in respect of his taxable income. The chargeability of income tax means imposition of tax on the income earned in an income year, at the rate specified by the Parliament or proper authority, in an assessment year, in accordance with and subject to the provisions of the ITO, 1984. Chapter 4 of the ITO, 1984 provides the basis of charge of income tax. Section 16 reveals the following basic principles of charge of income tax:

1. Income tax shall be charged at the rate or rates prescribed by the Finance Act enacted every year by the Parliament.
2. The charge is on every person as stated in Section 2(46) i.e. an individual, a firm, an association of persons, a HUF, a trust, a fund, a local authority, a company, an entity and every other AJP.
3. The income, that is taxed, must pertain to income year and not to the assessment year.
4. The tax is charged, levied, paid and collected in accordance with and subject to the provisions of the ITO, 1984.
5. Where under the provisions of this Ordinance, income tax is to be deducted at source, or paid or collected in advance; it shall be deducted, paid and collected accordingly.
6. The income has to be brought under any of the heads of income under Section 20 and can be charged to tax only if it is so chargeable under the computing section corresponding to that head of income.

3.5.1 Exceptions of the Basic Principles of Charging Income Tax:

As we have discussed earlier, some basic principles are followed to charge tax on the taxable income of an assessee. But, in the following exceptions basic principles are not followed:

1. Section 16(3) states that notwithstanding anything contained in Section 16(1), income tax shall be charged at the rates specified in the Second Schedule in respect of-

- i) A non-resident person, not being a company.
 - ii) Any income classifiable under the head “Capital Gain”.
 - iii) Any income by way of winning from lotteries, cross-word puzzles, card games and other games of any sort or from gambling or betting.
2. As per general principles, income tax is charged on the income earned in an income year in the assessment year which is the subsequent year to the income year. In the following exceptional areas, income tax may also be charged in respect of a period other than the income year whenever desired:
- i) Income of discontinued business as per Section 89(2).
 - ii) Persons leaving Bangladesh as per Section 91(2)(b).
 - iii) Income of non-resident shipping companies as per Section 102(2).

3.6 CHARGE OF SURCHARGE [SECTION – 16A]

The government through Parliament may also charge surcharge on income in addition to income tax. The provisions regarding surcharge as per Section 16A are as follows:

1. Where any Act of Parliament enacts that a surcharge on income shall be charged for any assessment year at any rate or rates, such surcharge at that rate or those rates shall be charged for that year in respect of the total income of the income year or the income years, as the case may be, of every person;
2. All the provisions of this Ordinance relating to charge, assessment, deduction at source, payment in advance, collection, recovery and refund of income tax shall, so far as may be, apply to the charge, assessment, deduction at source, payment in advance, collection, recovery and refund of the surcharge.

As per the provisions of the Finance Act, 2017, for the assessment year 2017-18, **surcharge** will be applied on **Individual** assessee showing total **net worth** in Income Tax Return:

- ⇒ Upto Tk. **2.25 crore** – @ **0%**
 - ⇒ More than Tk. **2.25 crore** to Tk. **5 crore** – @ **10%** on income tax payable
 - ⇒ More than Tk. **5 crore** to Tk. **10 crore** – @ **15%** on income tax payable
 - ⇒ More than Tk. **10 crore** to Tk. **15 crore** – @ **20%** on income tax payable
 - ⇒ More than Tk. **15 crore** to Tk. **20 crore** – @ **25%** on income tax payable
 - ⇒ More than Tk. **20 crore** – @ **30%** on income tax payable
- [However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]*

Illustration – 1: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 19,000,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be zero as the net wealth amount is less than Tk. 2.25 crore.

Illustration – 2: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 26,000,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be $(135,000 \times 10\%) = \text{Tk. } 13,500$ and total liability of tax and surcharge will be $(135,000 + 13,500) = \text{Tk. } 148,500$.

Illustration – 3: Mr. Hasan has a total income of Tk. 1,250,000 and net wealth of Tk. 11,00,00,000. His tax liability on income stands at Tk. 135,000. In this case, his surcharge amount will be $(135,000 \times 20\%) = \text{Tk. } 27,000$ and total liability of tax and surcharge will be $(135,000 + 27,000) = \text{Tk. } 162,000$.

3.7 CHARGE OF ADDITIONAL TAX [SECTION – 16B]

Notwithstanding anything contained in any other provision of ITO, 1984, where any person employs or allows, without prior approval of the Board of Investment or any competent authority of the

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Government, as the case may be, any individual not being a Bangladeshi citizen to work at his business or profession at any time during the income year, such person shall be charged additional tax at the rate of **fifty per cent (50%)** of the tax payable on his income or **taka five lakh**, whichever is higher in addition to tax payable under this Ordinance.

3.8 CHARGE OF ADDITIONAL AMOUNT [SECTION - 16BB]

Where under the provisions of this Ordinance any interest, amount or any other sum, by whatever name called, is to be charged in addition to tax, it shall be charged, levied, paid and collected accordingly.

3.9 CHARGE OF MINIMUM TAX [SECTION - 16BBB & 82C]

According to Section - 16BBB, where under the provisions of this Ordinance any minimum tax is to be charged, it shall be charged, levied, paid and collected accordingly. Notwithstanding anything contained in any other provisions of this Ordinance, minimum tax shall be payable by an assessee in accordance with the provisions of section 82C of the ITO, 1984. The provisions are as follows:

3.9.1 Where minimum tax will be applicable? [Section 82C(2)]

- (1) Any tax deducted or collected at source under the provisions of sections 52, 52A, 52AAA, 52B, 52C, 52D, 52JJ, 52N, 52O, 52R, 53, 53AA, 53B, 53BB, 53BBB, 53BBBB, 53C, 53CCC, 53DDD, 53E, 53EE, 53F, 53FF, 53G, 53GG, 53H, 53M, 53N and 55 shall be the minimum tax on income from the source or sources from which tax has been deducted or collected.

Provided that the tax deducted or collected from the following sources shall not be the minimum tax:

- (i) Tax collected under section 52 from the following persons-
 - (a) a contractor of an oil company or a subcontractor to the contractor of an oil company as may be prescribed;
 - (b) an oil marketing company and its dealer or agent excluding petrol pump station;
 - (c) any company engaged in oil refinery;
 - (d) any company engaged in gas transmission or gas distribution;
 - (ii) tax deducted under section 53 from import of goods by an industrial undertaking as raw materials for its own consumption;
 - (iii) tax deducted under section 53F from a source other than the sources mentioned in clause (c) of sub-section (1) and sub-section (2) of that section;
- (2) for the sources of income for which minimum tax is applicable, books of accounts shall be maintained in the regular manner in accordance with the provisions of section 35;
 - (3) income from any source, for which minimum tax is applicable under this sub-section, shall be determined in regular manner and tax shall be calculated by using applicable rate on such income. If the tax so calculated is higher than the minimum tax under clause (a), the higher amount shall be payable on such income:

Provided that income shall be determined and tax shall be calculated for certain sources in the manner as specified in the following -

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Sources of income as mentioned in	Amount that will be taken as income	Rate or amount of tax
Section 52C	amount of compensation as mentioned in section 52C	as mentioned in section 52C (2% or 1% as the case may be)
Section 52D	amount of interest as mentioned in section 52D	as mentioned in section 52D (5% as the case may be)
Section 53DDD	amount of export cash subsidy as mentioned in section 53DDD	as mentioned in section 53DDD (3% as the case may be)
Section 53F(1)(c) and (2)	amount of interest as mentioned in section 53F	As mentioned in section 53F (10%, 15% or 5% as the case may be)
Section 53H	Deed value as mentioned in section 53H	As mentioned in section 53H and the rule made thereunder.

- (4) income or loss computed in accordance with clause (d) or the proviso of clause (d) shall not be set off with loss or income, respectively, computed for any regular source.

3.9.2 Assessee having income from regular source in addition to the income from source or sources for which minimum tax is applicable [Section 82C(3)]

Where the assessee has income from regular source in addition to the income from source or sources for which minimum tax is applicable under section 82C(2)-

- (a) regular tax shall be calculated on the income from regular source;
- (b) the tax liability of the assessee shall be the aggregate of the tax as determined under sub-section (2) and the regular tax under clause (a).

3.9.3 Minimum tax for firm or companies [Section 82C(4)]

- (a) every firm having gross receipts of more than taka fifty lakh or every company shall, irrespective of its profits or loss in an assessment year, for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under this Ordinance, be liable to pay minimum tax in respect of an assessment year at the following rate:

Classes of assessee	Rate of minimum tax
Manufacturer of cigarette, bidi, chewing tobacco, smokeless tobacco or any other tobacco products	1% of the gross receipts
Mobile phone operator	0.75% of the gross receipts
Any other cases	0.60% of the gross receipts

Provided that such rate of tax shall be zero point one zero percent (0.10%) of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

- (b) where the assessee has an income from any source that is exempted from tax or is subject to a reduced tax rate, the gross receipts from such source or sources shall be shown separately, and the minimum tax under this sub-section shall be calculated in the following manner-
 - (i) minimum tax for receipts from sources that are subject to regular tax rate shall be calculated by applying the rate mentioned in clause (a);

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- (ii) minimum tax for receipts from sources that enjoys tax exemption or reduced tax rate shall be calculated by applying the rate mentioned in clause (a) as reduced in proportion to the exemption of tax or the reduction of rate of tax;
- (iii) minimum tax under this sub-section shall be the aggregate of the amounts calculated under sub-clauses (i) and (ii).

Explanation - For the purposes of this sub-section, 'gross receipts' means-

- (i) all receipts derived from the sale of goods;
- (ii) all fees or charges for rendering services or giving benefits including commissions or discounts;
- (iii) all receipts derived from any heads of income.

3.9.4 Points to be noted while charging the minimum tax [Section 82C(5-9)]

- (i) Where the provisions of both sub-section (2) and sub-section (4) apply to an assessee, minimum tax payable by the assessee shall be the **higher** of (a) the minimum tax under sub-section (2); or (b) the minimum tax under sub-section (4).
- (ii) Minimum tax under this section shall not be refunded, nor shall be adjusted against refund due for earlier year or years or refund due for the assessment year from any source.
- (iii) Where any surcharge, additional interest, additional amount etc. is payable under provisions of this Ordinance, it shall be payable in addition to the minimum tax.
- (iv) Where the regular tax calculated for any assessment year is higher than the minimum tax under this section, regular tax shall be payable.
- (v) In this section-
 - (a) "regular source" means any source for which minimum tax is not applicable under sub-section (2);
 - (b) "regular tax" means the tax calculated on regular income using the regular manner;
 - (c) "regular tax rate" means the rate of tax, that would be applicable if the tax exemption or the reduced rate were not granted."

Illustration - 1: X Ltd is a Private Limited Co. registered in Bangladesh involved in manufacturing cigarette. During the assessment year 2017-18, its total assessed income is Tk. 1,500,000 consisting net operating income of Tk. 1,250,000 and interest income of Tk. 250,000. If sales revenue/turnover is Tk. 20,000,000 and income tax rate is 35%, calculate income tax liability.

Income tax @ regular rate i.e. 35% (1,500,000 × 35%) = Tk. 525,000.

Gross receipts of the company: (Tk. 20,000,000 + Tk. 250,000) = Tk. 20,250,000

Minimum tax amount = (Tk. 20,250,000 × 1%) = Tk. 202,500.

Since, the regular tax is greater than the minimum tax, the tax liability of X Ltd. will be Tk. 525,000.

Illustration - 2: Y Ltd is a Private Limited Co. registered in Bangladesh involved in noodles business. During the income year 2016-17, its-

Net operating income (loss) (Tk. 450,000)

Interest income Tk. 250,000

Total assessed income (loss) (Tk. 200,000)

Sales revenue / turnover Tk. 2,00,00,000. Income tax rate is 35%. Calculate income tax liability.

Income tax @ regular rate i.e. 35% is Nil, since there is net loss.

Gross receipts of the company: (Tk. 20,000,000 + Tk. 250,000) = Tk. 20,250,000

Minimum tax amount = (Tk. 20,250,000 × 0.60%) = Tk. 121,500.

Since, the minimum tax is greater than the regular tax, the tax liability of X Ltd. will be Tk. 121,500.

3.10 TAX RATES

There is a provision of the Finance Bill being presented to the Parliament by the Finance Minister along with the Budget every year. It contains the rates of income tax for the assessment year. A few amendments in the tax laws are also incorporated therein and when it is passed in the parliament it is known as the Finance Act. According to Finance Act 2017, the rate structure being presented here in respect of the assessment year 2017 – 2018 is:

1. Tax rates applicable for every individual including Bangladeshi Non-residents, HUF, Firm, AOP and every other artificial judicial persons:

Income slab	Rate
On the first Tk. 2,50,000 of total income	Nil
On the next Tk. 4,00,000 of total income	10%
On the next Tk. 5,00,000 of total income	15%
On the next Tk. 6,00,000 of total income	20%
On the next Tk. 30,00,000 of total income	25%
On the balance of Total income	30%

Notes:

- a) The minimum non-assessable income limit will be Tk. 300,000 for women, and elderly citizens being more than 65 years of age. For disable persons the minimum non-assessable income limit will be Tk. 400,000 and for gazetted wounded freedom fighters (whose name is included in the gazette of Ministry of Liberation War Affairs-MLWA/SRO-3/Freedom Fighters/Gazette/2003/479 dated 04/09/2003) Tk. 425,000. The minimum non-assessable income limit of the parents or legal guardian of a disable person will be Tk. 25,000 more. If both the father and mother of a disable person are taxpayer, any one (not both) will enjoy the benefit.
- b) However, the minimum tax would be Tk. 5,000 (Dhaka North, Dhaka South & Chittagong City corporation area); Tk. 4,000 (Other City corporation area) and Tk. 3,000 (Other than City corporation area).
- c) Minimum tax of a firm having gross receipts of above taka fifty lakh irrespective of earning profit or incurring loss is 0.30% of gross receipt as per section 16CCC.
- d) If the assessee is an owner of any small and cottage industry or engaged in such kind of activities in a NBR specified less developed/least developed area, he/she will be eligible to have a tax rebate on such income: If production/turnover increases by more than 15% but less than 25% comparing to previous year, 5% rebate on tax applicable on such income will be allowed; If it increases by more than 25% than previous year, 10% rebate on tax applicable on such income will be allowed;
- e) Individual assessee having net wealth exceeding Tk. 2.25 crore as per wealth statement is liable to pay surcharge as per the Finance Act, 2017, for the assessment year 2017-18. Surcharge will be applied on Individual assessee as per following rate:

Upto Tk. 2.25 crore	– @ 0%
More than Tk. 2.25 crore to Tk. 5 crore	– @ 10% on income tax payable
More than Tk. 5 crore to Tk. 10 crore	– @ 15% on income tax payable
More than Tk. 10 crore to Tk. 15 crore	– @ 20% on income tax payable
More than Tk. 15 crore to Tk. 20 crore	– @ 25% on income tax payable
More than Tk. 20 crore	– @ 30% on income tax payable

[However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]

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2. Tax rates applicable for Companies:

Nature of Company	Rates
i) For companies being a publicly traded company and other than banks, insurance, other financial institutions, merchant bank, cigarette manufacturing companies and mobile phone operator companies: Provided that, if a non publicly traded company transfers at least 20% of its paid up capital through Initial Public Offerings (IPO), the company will get tax rebate @10% of the income tax in the year of transfer i.e. tax rate will be 24.75% .	25%
ii) For company not being publicly traded company and other than banks, insurance, other financial institutions, merchant bank, cigarette manufacturing companies and mobile phone operators companies	35%
iii) For Bank, Insurance company and financial institutions:	
Publicly traded	40%
Non-publicly traded	42.5%
approved by the government on 2013	40%
iv) For Merchant banks	37.5%
v) For Cigarettes, bidi, chewing tobacco, smokeless tobacco or any other tobacco products Manufacturing Companies	45%
vi) In case of Mobile Phone Operators, not being publicly traded company	45%
vii) In case of Mobile Phone Operator Companies, being publicly traded company by issuing minimum 10% of its total shares through stock exchanges (of which issuance through Pre Initial Public Offering Placement cannot be more than 5%) If a non publicly mobile phone operator company transfers at least 20% of its paid up capital through Initial Public Offerings (IPO), the company will get tax rebate @10% of the income tax in the year of transfer i.e. tax rate will be 36% in the year of transfer.	40%
viii) For dividend income or repatriation of profit by foreign company	20%
ix) Non-resident foreigner (individual)	30%
x) Income from Cigarette, bidi, chewing tobacco, smokeless tobacco etc. business by Cigarette Manufacturer other than company	45%
xi) Co-operative Societies, registered under the Co-operative Societies Act, 2001	15%

Note: (a) The "publicly traded company" means a public limited company which is registered in Bangladesh under the Companies Act 1913 or 1994 and the shares of which are listed in a stock exchange in Bangladesh before the end of the year for which assessment is to be made. (b) However, minimum tax of a company irrespective of earning profit or incurring loss is **0.60% to 1% of gross receipt, as the case may be**, as per section 82C; provided that such rate of tax shall be 0.10% of such receipts for an industrial undertaking engaged in manufacturing of goods for the first three income years since commencement of its commercial production.

3. **Tax rate applicable for an individual Non-resident Foreigner:** In the case of an individual non-resident assessee (other than Bangladeshi non-resident); i.e. Non-resident foreigner, the rate of tax would be the maximum rate applicable in the country i.e. 30%.
4. **Surcharge on net wealth exceeding Tk. 2.25 crore:** Any individual assessee having net wealth exceeding Tk. 2.25 crore as per the Statement of assets, liabilities and expenses, is liable to pay **surcharge @ following rate:** As per the provisions of the Finance Act, 2017, for the assessment year 2017-18, **surcharge** will be applied on **Individual** assessee showing total **net worth** in Income Tax Return:
- | | |
|---|-------------------------------|
| Upto Tk. 2.25 crore | – @ 0% |
| More than Tk. 2.25 crore to Tk. 5 crore | – @ 10% on income tax payable |
| More than Tk. 5 crore to Tk. 10 crore | – @ 15% on income tax payable |
| More than Tk. 10 crore to Tk. 15 crore | – @ 20% on income tax payable |
| More than Tk. 15 crore to Tk. 20 crore | – @ 25% on income tax payable |
| More than Tk. 20 crore | – @ 30% on income tax payable |
- [However, if net wealth amount exceeds Tk. 2.25 crore, minimum surcharge amount will be Tk. 3,000.]

Illustrative examples of surcharge calculation under different circumstances:

Details	(1)	(2)	(3)	(4)	(5)	(6)
Net asset of the assessee	1,90,00,000	2,30,00,000	9,00,00,000	10,50,00,000	16,14,00,000	22,00,00,000
Total Income (TI)	10,90,000	10,90,000	10,90,000	10,90,000	10,90,000	10,90,000
Gross Tax on TI	106,000	106,000	106,000	106,000	106,000	106,000
Tax rebate on Inv. All	Nil	Nil	Nil	Nil	Nil	20,000
Net Tax Payable (NT)	106,000	106,000	106,000	106,000	106,000	86,000
TDS	Nil	Nil	Nil	Nil	Nil	75,000
Tax to be paid	106,000	106,000	106,000	106,000	106,000	11,000
Applicable surcharge (NT × % of surcharge)	N/A	10,600 [@10%]	15,900 [@15%]	21,200 [@20%]	26,500 [@25%]	25,800 [@30%]

5. **Reduced tax rate on agro-firm incomes etc. [SRO No. 199-AIN/IT/2015 dated 01/07/2015]:** Any income from production of pelleted poultry feed, production of pelleted feed for fish, shrimp & cattle, production of seeds, marketing of locally produced seeds, cattle farming, dairy farming, frog farming, horticulture, Silk tree plantation, Bee keeping, Silk worm firming, mushroom farming, floriculture is taxable at a reduced tax rate as follows:

Income	Tax Rate
On first Tk. 10 lac	3%
On next Tk. 20 lac	10%
For the rest of the amount	15%

6. **Reduced tax rate on Poultry Firm [SRO No. 254-AIN/IT/2015 dated 16/08/2015]:** Income from poultry firm will be taxed at following rate:

Income	Tax Rate
On first Tk. 20 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

7. **Reduced tax rate on income from Poultry, Shrimp & fish hatchery, fisheries Firm [SRO No. 255-AIN/IT/2015 dated 16/08/2015]:**

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Income	Tax Rate
On first Tk. 10 lac	nil
On next Tk. 10 lac	5%
For the rest of the amount	10%

8. Reduced tax rates applicable for certain industrial companies:

Industries	Rate
1. On export income of jute industries for assessment years 2016-17 to 2019-20 [As per SRO No. 205-AIN/IT/2016 dated 29/06/2016]	10%
2. Textile and Yarn manufacturing related companies registered under the Company Act, 1994 for a period from July 01, 2015 to June, 30, 2019 [As per SRO No. 193-AIN/IT/2015 dated 01/07/2015]	15%
3. On export income of Nit ware and Oven Garments manufacturer and exporters for assessment year 2017-18 [As per SRO No. 255-AIN/IT/2017 dated 01/08/2017]; <i>Having green building certification the tax rate will be 10%.</i>	12%

9. Tax rates in respect of Capital Gains:

Income tax shall be charged on capital gains at the rates specified in the Second Schedule of the ITO, 1984. The provisions are as follows:

- (a) In the case of a company-
 - (i) tax payable on the total income as reduced by the said income had such reduced income been the total income; plus
 - (ii) tax at the rate of **fifteen per cent** on the whole amount of the said income;
- (b) In case of a person other than a company-
 - (i) where the said income arises as a result of disposal by the assessee of his capital assets after not more than five years from the date of their acquisition by him, tax payable on the total income including the said income; and
 - (ii) where the said income arises from disposal by the assessee of his capital assets after five years from the date of their acquisition by him, tax payable on the capital gains at the rate applicable to his total income including the said capital gains, or tax at the rate of **fifteen per cent** on the amount of the capital gains whichever is the lower.

10. Tax rate for income from Winnings etc.:

If the total income of an assessee includes any income by way of winning from lotteries, cross-word puzzles, card games and other games of any sort or from gambling or betting under the head "Income from other sources", the tax payable by him on the said income shall be at the rate applicable to his total income including the said income or at the rate of **twenty percent**, whichever is lower.

11. Tax rate applicable for charging of additional tax:

Additional tax at the rate of 50% of the tax payable on income or Tk. 5 lac whichever is higher, for the person employing foreigners without prior approval of the concerned authority. The details have been explained earlier under the title **Charge of Additional Tax [Section – 16B]**.

12. Tax rate applicable for national level Research Institute established under the Trust Act, 1882 or Societies Registration Act, 1860 [SRO No. 163-AIN/IT/2014 dated 25.06.2014]: 15%, effective from 1st July, 2014.

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- 13. Tax rate applicable for private universities approved by the UGC [SRO No. 268-AIN/IT/2010 dated 01.07.2010]:** 15%, tax rate is applicable for the income of private universities, private medical college, dental college, engineering college and the private college or universities imparting only information technology. Public universities will remain exempted from tax.
- 14. Tax rate applicable for public utility providers and income from public service activities of the NBR approved local authorities [SRO No. 158-AIN/IT/2014 dated 26.06.2014 later revised by SRO No. 197-AIN/IT/2015 dated 30.06.2015 and SRO No. 207-AIN/IT/2017 dated 21.06.2017]:** 25% on all income except capital gains. The organizations are: Dhaka WASA, Chittagong WASA, Khulna WASA, Rajshahi WASA, Civil Aviation Authority Bangladesh, RAJUK, Rajshahi Development Authority, Khulna Development Authority, Chittagong Development Authority, National Housing Authority, Chittagong Port Authority, Mongla Port Authority, Paira Port Authority, Bangladesh Inlan Port Authority, Bangladesh Television, Bangladesh Betar, BIWTA, BTRC, BPDB, BRDB, BWDB, BEPZ Authority, Jamuna Bridge Authority, Borendro Multipurpose Development Authority (Rajshahi), Bangladesh Hi-Tech Park Authority, Insurance Development & Regulatory Authority Bangladesh, Sustainable & Renewable Energy Development Authority (SREDA) and Bangladesh Economic Zone Authority.
- 15. Tax rate applicable for Private Power Generation Companies:** Private Power Generation Companies (Except Coal Based Electricity Generation Company) Starting operation within June 30, 2013 [SRO No. 235-AIN/IT/2011 dated 06.07.2011]; Private Power Generation Companies (Except Coal Based Electricity Generation Company) Starting operation within June 30, 2019 [SRO No. 211-AIN/IT/2013 dated 01.07.2013 later revised by SRO No. 354-AIN/IT/2013 dated 18.11.2013 & SRO No. 246-AIN/IT/2016 dated 26.07.2016] and Private Coal Based Electricity Generation Companies signing the contract within June 30, 2020 and starting operation within June 30, 2023 [SRO No. 213-AIN/IT/2013 dated 01.07.2013] will be *exempted from income tax* in case of:
- ❖ Income of the company, for 15 years from the day of starting the operation.
 - ❖ Income of foreign nationals working in such company, for 3 years from the day of their entry to Bangladesh.
 - ❖ Due interest on foreign loans taken by the company.
 - ❖ On payable amount of Royalties, Technical Know-how and Technical Assistance Fees by the company.
 - ❖ Capital gain arisen from the transfer the company's shares.

Private Power Generation Companies (Except Coal Based Electricity Generation Company) starting operation on or after January 01, 2015 [SRO No. 212-AIN/IT/2013 dated 01.07.2013 later revised by SRO No. 355-AIN/IT/2013 dated 18.11.2013] will enjoy tax holiday facility for the next 10 years from the date of starting the operation on or after July 01, 2016 as per the following rates [SRO No. 212-AIN/IT/2013 dated 01.07.2011 later revised by SRO No. 212-AIN/IT/2013 dated 01.07.2011]:

Period of Exemption	Rate of Exemption
For the first 5 years (1 st , 2 nd , 3 rd , 4 th & 5 th year)	100% of income
For the next 3 years (6 th , 7 th and 8 th year)	50% of income
For the last 2 year (9 th and 10 th year)	25% of income

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16. Advance tax applicable for the owners' of private motor car, Jeep or Microbus [Section 68B]: Every person owning a private motor car shall be deemed to have an income by which the motor car is maintained and shall pay advance income tax to be collected on the basis of the following rates at the time of registration or renewal of fitness:

Types of car (On the basis of cc)	Per car / jeep / microbus tax
(a) Motorcar or Jeep (upto 1,500 cc)	Tk. 15,000
(b) Motorcar or Jeep (1,501 cc to 2,000 cc)	30,000
(c) Motorcar or Jeep (2,001 cc to 2,500 cc)	50,000
(d) Motorcar or Jeep (2,501 cc to 3,000 cc)	75,000
(e) Motorcar or Jeep (3,001 cc to 3,500 cc)	100,000
(f) Motorcar or Jeep (Above 3,500 cc)	125,000
(g) Microbus	20,000

But for having more than one Motorcar/Jeep/Microbus under the single or joint ownership, in addition to above regular amount **excess 50%** income tax will be applied for second and onwards vehicle. The tax amount paid will be adjusted with the total amount of tax. This provision will not be applicable for the vehicles owned by:

- (i) the government and the local government;
- (ii) a project, programme or activity under the government and the local government;
- (iii) a foreign diplomat, a diplomatic mission in Bangladesh, United Nations and its offices;
- (iv) a development partner of Bangladesh and its affiliated office or offices;
- (v) an educational institution under the Monthly Payment Order of the Government;
- (vi) a public university;
- (vii) any entity that is not a person as defined under clause (46) of section (2) of this Ordinance;
- (viii) a gazetted war-wounded freedom fighter; or
- (ix) an institution that has obtained a certificate from the Board that advance tax shall not be collected from it.

17. Tax rate applicable for owners' of ship/vessel used for public transport, Cargo, Coaster and Dump barge [SRO No. 224-AIN/IT/2012 dated 27.06.2012 later some changes incorporated by SRO No. 162-AIN/IT/2014 dated 26.06.2014]: The income earned from ship/vessel (except oil-tanker) used for public transport, Cargo, Coaster and Dump barge will be exempted from tax subject to the payment of the following amount of taxes before the renewal of survey certificate:

	Tax rate	
	[from the date of registration]	
	Within 10 years	After 10 years
(a) Ship/ vessel used for inland water passenger service (On the basis of day service capacity)	@Tk. 100 per passenger	@Tk. 40 per passenger
(b) Cargo/Coaster used for inland water goods transport (On the basis of capacity to carry)	@Tk. 135 per gross tonnage	@Tk. 60 per gross tonnage
(c) Dump Barge used for inland water goods transport (On the basis of capacity to carry)	@Tk. 100 per gross tonnage	@Tk. 50 per gross tonnage

18. **Special tax rate for ship making industry for 12 years effective from the date of the issuance of SRO [SRO No. 132-AIN/IT/2013 dated 28.05.2013]:** Publicly traded ship making company 5% and non publicly traded ship making company 10% only on income earned from export business.
19. **Special tax rate for organizations engaged in production of freezer, refrigerator, motorcycle and air conditioners for 12 years effective from the date of the issuance of SROs [SRO No. 186-AIN/IT/2009 dated 01.07.2009 later revised in SRO No. 78-AIN/IT/2010 dated 15.03.2010]:** 5% from the date of the starting the production.
20. **Income earned as Mutual Fund Management Fee by an Asset Management Company [SRO No. 362-AIN/IT/2013 dated 27.11.2013]:** 15%
21. **Tax rate applicable for owners' of bus, minibus, coaster, taxicab, primemover, truch, tanklorry, pickup, human hauler, maxi or auto rickshaws that carry goods [SRO No. 171-AIN/IT/2009 dated 30.06.2009 later some changes incorporated by SRO No. 267-AIN/IT/2010 dated 01.07.2010 & SRO No. 160-AIN/IT/2014 dated 26.06.2014]:** The income from bus, minibus, coaster, taxicab, primemover, truch, tanklorry, pickup, human hauler, maxi or autorickshaws that carry goods is chargeable to income tax subject to the fulfillment of some conditions:

	Tax rate	
	[from the date of registration]	
	Within 10 years	After 10 years
(a) Bus having more than 52 seats	Tk. 12,500	Tk. 6,500
(b) Bus having 52 or less seats	9,000	4,500
(c) (i) Air-Conditioned Luxury Bus	30,000	15,000
(ii) Double Decker Bus	12,500	6,500
(d) Air-Conditioned minibus/coaster	12,500	9,000
(e) Other types of minibus/coaster	5,000	2,500
(f) Primemover used for carrying container	19,000	10,000
(g) Truck/Tank Lorry (capacity 5 ton or more)	12,500	7,500
(h) Truck/Tank Lorry (capacity more than 1.5 and less than 5 ton)	7,500	4,500
(i) Truck/Pick up (capacity less than 1.5 ton), all kind of human hauler, maxi, goods carrying auto rickshaws	3,000	2,500
(j) Air-Conditioned Taxi cab	9,000	4,500
(k) Taxi Cab without Air conditioned	3,000	1,500

3.11 SPECIAL TAX TREATMENT OF INVESTMENT IN THE PURCHASE OF RESIDENTIAL BUILDING AND APARTMENT [SEC- 19BBBBB]

Notwithstanding anything contained in this Ordinance, source of any sum invested by any person, in the construction or purchase of any residential building or apartment, shall be deemed to have been explained if the assessee pays, before the assessment for the relevant assessment year in which the investment is completed, tax at the following rate **per square meter**:

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Area where the Building & Apartment is situated	Plinth area 200 sq. meter	
	Does not exceed	Exceeds
Gulshan Model Town, Banani, Baridhara, Motijheel C/A and Dilkusha C/A of Dhaka	Tk. 5,000	Tk. 7,000
Dhanmondi R/A, Defence Officers Housing Society (DOHS), Mahakhali, Lalmatia Housing Society, Uttara Model Town, Bashundhara Residential Area, Dhaka Cantonment, Karwan Bazar, Bijoy Nagar, Segunbagicha, Nikunja of Dhaka, and Panchlaish, Khulshi, Agrabad and Nasirabad area of Chittagong	Tk. 4,000	Tk. 5,000
In any City Corporation other than areas mentioned in above two clauses	Tk. 2,000	Tk. 3,000
In a Paurasabha of any district headquarters	Tk. 600	Tk. 800
In any area other than above four clauses	Tk. 400	Tk. 600

Notes:

1. The rate mentioned above shall be **20% higher** in case where the assessee already owns a building or apartment in any City Corporation before such investment is completed; or the assessee makes such investment in two or more buildings or apartments.
2. The above provision shall not apply where the source of such investment is: (a) Derived from any criminal activities under any other law for the time being in force; or (b) Not derived from any legitimate source.

3.12 SPECIAL TAX TREATMENT FOR INCOME OF COMPANIES FORMED UNDER BANGLADESH PUBLIC-PRIVATE PARTNERSHIP ACT – 2015 (PPP COMPANIES) [SRO NO. 208-AIN/IT/2017 DATED 21.06.2017; SRO NO. 209-AIN/IT/2017 DATED 21.06.2017; SRO NO. 210-AIN/IT/2017 DATED 21.06.2017]

Under these SROs the beneficiary PPP Projects are, National Highways or Expressways and Related Service Roads, Flyovers, Elevated and At-Grade Expressways, River Bridges, Tunnels, River Port, Sea Port, Airport, Subway, Monorail, Railway, Bus Terminals, Bus Depots and Elderly Care Home. The SROs are effective from 1st July, 2017.

Following incomes of the certain PPP Project Companies will be exempted from income tax for **ten (10)** years effective from day of commencement of its operation subject to the fulfillment of certain conditions:

- i. These companies should have 12-digit TIN,
- ii. They must maintain accounts u/s 35 and submit income tax return u/s 75.
 - (a) Income from Business – 100%
 - (b) Capital gain from transfer of raised share capital, and
 - (c) Royalty, Technical know-how and Technical Assistance Fee paid for the project operation.

The foreign technicians will also avail 50% tax exemption for three (3) years after the expiry of 5 years of its operation. To avail the benefits, the foreign technicians should obtain 12-digit TIN, and submit income tax return u/s 75.

3.13 SPECIAL TAX RATES ON INCOME EARNED FROM SELLING STOCKS AND SHARES [SRO 196-AIN/IT/2015 DATED 30/06/2015]

1. The following reduced tax rates will be applicable on the income earned from transaction of securities (excluding government securities) listed in the Stock Exchanges:

Nature of Taxpayer's income	Tax rate
Any income earned from trading of shares/securities by any company U/S 2(20) and firm U/S 2(32)	10%
Any income earned from trading of shares/securities by any Sponsor Shareholder / Director of a Bank, Financial Institution, Merchant Bank, Insurance Company, Leasing Company, Portfolio Management Company, Stock Dealer or Stock Broker Company	5%
Any income earned from trading of shares/securities by any Shareholder [excluding the Sponsor Shareholders/Directors mentioned in above] having 10% or more shares of the total paid up capital of a company / companies listed at any time during the income year	5%

2. The income from trading of shares of all other types of taxpayers' excluding those mentioned in the above SRO, Sec. 53M and 53O of the ITO, 1984 is **exempted** from tax.
3. Here, the term "Securities" will include any stocks, shares, mutual fund units, bonds, debentures or other securities of any listed company tradable in the stock exchanges of the country (excluding the securities issued by the government).
4. This SRO is effective from July 01, 2015.

3.14 SPECIAL TAX REBATE FOR NEW MANUFACTURING INDUSTRIES ESTABLISHED IN OUTSIDE OF THE CITY CORPORATION AREAS [SRO No. 185-AIN/IT/2014 dated 01.07.2014]

A new manufacturing industry, established in any area of Bangladesh other than the areas within the jurisdiction of city corporations, will enjoy tax rebate according to the following provisions:

Conditions	Rate of Rebate
If commercial operation is started within 1 st July, 2014 to 30 th June, 2019; for 10 years from the date of commercial operation	20%
If any organization, whose commercial operation has already been started within the jurisdiction of city corporation area, shifts its operation wholly to any area outside of the city corporations within 1 st July, 2014 to 30 th June, 2019; for 10 years from the date of shift	20%
Any manufacturing industry whose commercial operation has been started, upto 30 th June, 2019.	10%

This SRO will be effective from July 01, 2014. The above rebate option will not be applicable for following manufacturing industries:

- (a) If the organization enjoys the tax holiday scheme, for the period availing the benefits under the tax holiday scheme.
- (b) If the income of the organization is exempted from tax, upto tax exemption period.
- (c) If the organization enjoys reduced rate of tax imposed by SRO under Section 44 of the ITO, 1984, for the period availing the reduced rate of tax.

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- (d) If it is listed in Stock Exchanges as publicly traded company.
- (e) If the organization is not certified with clearance from Environmental Department/Ministry.

3.15 VOLUNTARY DISCLOSURE OF INCOME AS PER SECTION – 19E

Notwithstanding anything contained in ITO, 1984 any person who has not been assessed to tax for the income year or years prior to all the income year relevant to the assessment year and he has not submitted return of income for those year or years, may disclose such income as income in the respective heads of income in his return of income for the assessment year or any subsequent assessment year. Moreover, this provision will also be applicable for any income that has escaped assessment in those assessments or the amount of income assessed is less than the actual income.

Return of income mentioned in sub-section (1) shall be treated as valid, if –

- (a) the assessee pays before the submission of return-
 - (i) tax payable at applicable rate on total income including such income under respective heads of income; and
 - (ii) penalty at the rate of ten percent of tax proportionate to such income under respective heads of income;
- (b) the return of income is submitted within the time specified in sub-section (5) of section 75; and
- (c) a declaration is enclosed with the return of income in respect of the following: name of the person declaring; head of the declared income and amount thereof; and amount of tax and penalty paid thereof.

The provision of this section shall not apply where-

- (a) a notice under section 93 has been issued before submission of such return of income for the reason that any income, assets or expenditure has been concealed or any income or a part thereof has escaped assessment;
- (b) a notice on a banking company under clause (f) of section 113 has been issued before submission of such return of income;
- (c) any proceeding under sections 164, 165 or 166 has been initiated before submission of such return of income;
- (d) any income declared under this section is-
 - (i) not derived from any legitimate source of income; or
 - (ii) derived from any criminal activities under any other law for the time being in force; or
- (e) any income declared under this section which is –
 - (i) exempted from tax in the concerned income year; or
 - (ii) chargeable to tax at a reduced rate in accordance with section 44 if ITO 1984.

The income shown under this section may be invested in any income generating activities or any sector including the following:

- (a) industrial undertaking including its expansion;
- (b) balancing, modernization, renovation and extension of an existing industry;
- (c) building or apartment or land;
- (d) securities listed with a Stock Exchange in Bangladesh; or
- (e) any trade, commercial, or industrial venture engaged in production of goods or services.

3.16 SPECIAL TAX RATES OF LEGALIZING THE INVESTMENT AT BUS, MINIBUS, COASTER, TRUCK ETC. WITHOUT RAISING ANY QUESTION

No question will be raised as to the source of purchase price if assessee pays tax @1,000% of tax to be paid per year per bus, minibus, coaster, truck etc. [SRO 223-AIN/IT/2011 dated 04.06. 11]

3.17 SPECIAL TAX EXEMPTION FOR COMPANIES IN ECONOMIC ZONES AND HITECH PARK:

Companies established in government declared economic zones under Bangladesh Economic Zone Act, 2010 (Act no 42 of 2010) & in government declared hitech park under Bangladesh Hi-Tech Park Authority Act, 2010 (Act no 8 of 2010), will enjoy exemption from paying income tax for 10 years as per following rates [SRO 226-AIN/IT/2015 dated 08.07. 15; SRO 228-AIN/IT/2015 dated 08.07. 15]:

Year	1, 2 & 3	4	5	6	7	8	9	10
Rate of Exemption from Income Tax	100%	80%	70%	60%	50%	40%	30%	20%

To enjoy such exemption, the companies have to →Take TIN; → Maintain accounts in proper manner u/s 35; and → Have to submit income tax return timely u/s 75.

3.18 SPECIAL TAX EXEMPTION FOR DEVELOPERS OF ECONOMIC ZONES AND HITECH PARK:

Developers appointed to develop government declared economic zones under Bangladesh Economic Zone Act, 2010 (Act no 42 of 2010) & government declared hitech park under Bangladesh Hi-Tech Park Authority Act, 2010 (Act no 8 of 2010), will enjoy exemption from paying income tax for 12 years from the commencement of their business as per following rates [SRO 227-AIN/IT/2015 dated 08.07. 15; SRO 229-AIN/IT/2015 dated 08.07. 15]:

Year	Rate of Exemption from Income Tax
1 to 10	100%
11	70%
12	30%

To enjoy such exemption, the companies have to:

- ❖ The developer must be a company u/s 2(20);
- ❖ Take TIN;
- ❖ Maintain accounts in proper manner u/s 35; and
- ❖ Have to submit income tax return timely u/s 75.

3.19 TAX PAYER'S IDENTIFICATION NUMBER (TIN) [SECTION 184B, RULE 64B & RULE 64BB]

As a part of Tax Reform Initiatives, Tax Payer's Identification Number (TIN) has been introduced by the Finance Act 1993, introducing a Section 184B in the ITO, 1984 and has taken into effect on July 1, 1994. According to which, every assessee or any person applies manually or electronically for TIN will be issued a certificate containing 12 digits TIN.

The application may be submitted electronically through the website hosted by NBR or manually in prescribed form to the DCT. Here, it is to be provided that TIN may be issued without any

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application where any income tax authority has found a person having taxable income during the year and has failed to apply before issuance of the said number. Board may, by general or special order in writing, direct any person who already holds a TIN to furnish such information or documents for the purpose of re-registration and thereafter issue a new twelve digit Taxpayer's Identification Number.

Every existing assessee having ten-digit Tax-payer's Identification Number or a Temporary Registration Number (TRN) shall have to obtain twelve-digit Tax-payer's Identification Number (TIN) before the last date of submission of return of income as required under section 75.

3.19.1 Requirement of TIN Certificate or acknowledgement receipt containing twelve-digit TIN of return of income in certain cases:

1. Notwithstanding anything contained in this Ordinance, a person shall be required to furnish a proof of holding twelve-digit Taxpayer's Identification Number in the cases mentioned in sub-section (3).
2. The proof of holding twelve-digit Taxpayer's Identification Number shall be a certificate issued by the Deputy Commissioner of Taxes or a system generated certificate authorized by the Board in this behalf or an acknowledgment receipt of return of income, if such certificate or acknowledgment receipt, as the case may be, contains the name and the twelve-digit Taxpayer's Identification Number of the person.
3. The proof of holding twelve-digit Taxpayer's Identification Number shall be furnished in the following cases as per Section 184A:
 - (i) Opening a letter of credit for the purpose of import.
 - (ii) Applying for an import registration certificate or export registration certificate.
 - (iii) Obtaining the issuance or renewal of a trade license in the area of a city corporation or paurashava.
 - (iv) submitting tender documents by a resident for the purpose of supply of goods, execution of a contract or rendering a service;
 - (v) Submitting application for the membership of a club registered under the Company Act, 1994.
 - (vi) Obtaining the issuance or renewal of license of or enlistment of a surveyor of general insurance.
 - (vii) Obtaining registration, by a resident, of the deed of transfer, baynanama or power of attorney of a land, building or an apartment situated within a city corporation or a paurashava of a district headquarter, where the deed value exceeds one lakh taka;
 - (viii) Obtaining registration, change of ownership or renewal of fitness of a bus, truck, prime mover, lorry etc., plying for hire;
 - (ix) Applying for a loan exceeding Tk. 500,000 from a bank or a financial institution.
 - (x) Obtaining a credit card.
 - (xi) obtaining the membership of the professional body as a doctor, dentist, lawyer, chartered accountant, cost and management accountant, engineer, architect or surveyor or any other similar profession.
 - (xii) Being a director or a sponsor shareholder of a company.

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- (xiii) Obtaining and retaining a license as a Nikah Registrar under the Muslim Marriages and Divorces (Registration) Act, 1974 (LII of 1974).
- (xiv) Obtaining or maintaining the membership of any trade or professional body.
- (xv) Submitting a plan for construction of building for the purpose of obtaining approval from Rajdhani Unnayan Kartipakkha (Rajuk), Chittagong Development Authority (CDA), Khulna Development Authority (KDA) and Rajshahi Development Authority or other concerned authority.
- (xvi) Obtaining or maintaining a drug license.
- (xvii) Obtaining or maintaining the commercial connection of gas.
- (xviii) Obtaining or maintaining the connection of electricity for commercial purpose in a city corporation, paurashava or cantonment board;
- (xix) Registration, change of ownership or renewal of fitness of a motor vehicle;
- (xx) Obtaining or maintaining a survey certificate of any water vessel including launch, steamer, fishing trawler, cargo, coaster and dump-burge etc., plying for hire;
- (xxi) Registration or renewal of agency certificate of an insurance company.
- (xxii) Obtaining the permission or the renewal of permission for the manufacture of bricks by Deputy Commissioner's office in a district or Directorate of Environment, as the case may be;
- (xxiii) Participating in any election in upazilla, paurasabha, city corporation or Jatiya Sangsad.
- (xxiv) Obtaining the admission of a child or a dependent in an English medium school, providing education under international curriculum, situated in any city corporation, district headquarter or paurasabha.
- (xxv) Receiving any payment which is an income of the payee classifiable under the head "Salaries" by an employee of the government or an authority, corporation, body or units of the government or formed by any law, order or instrument being in force, if the employee, at any time in the income year draws a basic salary of Tk. Sixteen thousand or more.
- (xxvi) Receiving any amount from the Government under the Monthly Payment Order (MPO) if the amount of payment exceeds taka sixteen thousand per month;
- (xxvii) Receiving any payment which is an income of the payee classifiable under the head "Salaries" by any person employed in the management or administrative function or in any supervisory position in the production function.
- (xxviii) Obtaining or maintaining the agency or the distributorship of a company;
- (xxix) Receiving any commission, fee or other sum in relation to money transfer through mobile banking or other electronic means or in relation to the recharge of mobile phone account;
- (xxx) Receiving any payment by a resident from a company against any advisory or consultancy service, catering service, event management service, supply of manpower or providing security service;
- (xxxi) Submitting a bill of entry for import into or export from Bangladesh.

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4. The Board may, by a general or special order, exempt any person from furnishing twelve-digit Taxpayer's Identification Number.
5. The person responsible for processing any application or nomination, approving any license, certificate, membership, permission, admission, agency or distributorship, sanctioning any loan, issuing any credit card, allowing connection, executing registration or making any payment shall not so process, approve, sanction, issue, allow, execute or make payment, as the case may be, unless the twelve-digit Taxpayer's Identification Number is furnished as required under the provision of sub-section (1) or the person who is required to furnish the proof of holding twelve-digit Taxpayer's Identification Number provides a certificate from the Board that he is exempted from furnishing such proof.
6. The person to whom the proof of holding twelve-digit Taxpayer's Identification Number is furnished shall verify the authenticity of it in the manner as may be specified by the Board."

3.20 TAX COLLECTION ACCOUNT NUMBER [SECTION 184BB]

Every person required to deduct or collect tax under Chapter VII (Payment of Tax before Assessment) of the ITO, 1984 shall be given a tax collection account number in such manner as may be prescribed.

3.21 UNIFIED TAXPAYER'S IDENTIFICATION NUMBER (UTIN)

To simplify the tax collection procedure, the concept of Unified Taxpayer's Identification Number (UTIN) has been introduced through the Finance Ordinance, 2007. As per Section 184BBB, an assessee having taxpayer's identification number (TIN) when registered with VAT authority and obtained a business identification number (BIN) shall be given a Unified Taxpayer's Identification Number (UTIN) in such manner as may be prescribed by the Board.

3.22 ISSUANCE OF TEMPORARY REGISTRATION NUMBER [SEC - 184BBBB]

Temporary Registration Number (TRN) may be given to a person who has been found having taxable income in any year and has failed to apply for TIN under section 184B.

3.23 DISPLAYING OF TIN CERTIFICATE [SECTION 184C]

An assessee having income from business or profession shall obtain twelve digit TIN Certificate from the DCT under whose jurisdiction he is being assessed and display such certificate at a conspicuous place of such assessee's business premises.

3.24 REWARDS TO OFFICERS AND EMPLOYEES OF THE BOARD AND ITS SUBORDINATE INCOME TAX OFFICES [SECTION 184D]

Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Board may, in such manner and in such circumstances and to such extent as may be prescribed, grant reward to the following persons (section - 184D):

- (a) an officer or employee of the Board and its subordinate tax offices for outstanding performance, collection of taxes and detection of tax evasion.
- (b) any other person for furnishing information leading to detection of tax evasion.

In addition to the reward mentioned above, The Board may also grant reward for collection of revenue in excess of the revenue target as may be prescribed.

3.25 TAX TO BE CALCULATED TO NEAREST TAKA (SECTION 175)

In the determination of the amount of tax or of a refund payable under this Ordinance, fractions of a taka, less than fifty poisha, shall be disregarded and fractions of a taka equal to or exceeding fifty poisha shall be regarded as one taka.

3.26 ORDINANCE TO OVERRIDE OTHER LAWS (SECTION 184F)

Notwithstanding anything contained in any other law for the time being in force, the provisions of this Ordinance or any proceedings thereunder shall prevail over any other law in respect of tax on income and exemptions of tax thereof.

KEY POINTS

1. Income tax is a tax on income
2. The rate of income tax is determined by the government in the National Assembly through the Finance Act.
3. Income tax ensures –
 - (a) revenue collection for government
 - (b) re-distribution of income
 - (c) increase in savings
 - (d) increase in capital investment
 - (e) economic development
4. The government of Bangladesh has taken various measures to modernize the tax system and imposed various provisions in the Income Tax Ordinance, 1984 through Tax Holiday Scheme, Investment Allowance, Accelerated Depreciation Allowance etc.
5. Accelerated Depreciation is allowed at the rate of
 - ⇒ 100% in first year for specified areas, and
 - ⇒ 80% in first and 20% in the second year for industries established in other areas.
6. Income tax encourage people to spend in certain social development program as spending in certain areas are exempted from tax payment like contribution to president's / prime minister's relief fund.
7. The Income Tax Ordinance, 1984 came into force on 1st July, 1984 as Income Tax Manual I. It has 23 Chapters, 187 sections, numerous sub-sections and seven schedules containing provisions regarding assessment, penalty, appeal etc.
8. NBR can issue certain circulars (SRO) regarding income tax as and when necessary.
9. Taxpayers can submit tax return under 'universal self-assessment' scheme.
10. The National Board of Revenue (NBR) under the Internal Resources Division of the Ministry of Finance is responsible for the collection of all taxes including income tax.

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Multiple choice questions:

1. If the assessment year is 2017 – 18 , the income year is –
 - (a) 2014 – 2015
 - (b) 2017 – 2018
 - (c) 2016 – 2017
 - (d) decided by the authority
2. If the assessment year is 2017 – 18 and the assessee maintains his accounting record for the year ending on 30th June, 2017 the income year will be ending on –
 - (a) 31st December, 2016
 - (b) 30th June, 2015
 - (c) 31st December, 2017
 - (d) 30th June, 2017
3. Assessment year and Income year is same for –
 - (a) discontinued business
 - (b) Persons leaving Bangladesh
 - (c) non-resident shipping companies
 - (d) all of the above
4. Which of the following statement is false –
 - (a) Residential status may differ from year to year
 - (b) Residential status will not depend on the citizenship of the assessee
 - (c) Burden of proving the residential status lies with the assessee
 - (d) Residential status is always determined number of days assessee stay in the country in the assessment year
5. Which of the following issues can have different effect for a resident and non-resident Bangladeshi assessee –
 - (a) Determination of total income
 - (b) Minimum limit of taxable income
 - (c) Rate of tax
 - (d) Income tax rebate

Assess the residential status of the following assessee for the income year 2016 – 2017:

6. A Bangladeshi was outside Bangladesh from 25th October 2011. He visited Bangladesh during the income year on 6th December 2016 and stayed for three and a half months.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
7. A foreigner visits Bangladesh for a consultancy contract and resides Bangladesh during the period 27th October to 15th February and 8th April to 20th June in the income year 2016 – 2017:
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
8. A foreigner visits Bangladesh for a 5 months period during the income year 2016 – 2017 and also he was in Bangladesh for a full year in the income year 2011 – 2012:
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner

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9. A Bangladeshi was outside Bangladesh from 15th September 2016 to 1st June 2017.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner
10. A Bangladeshi was outside Bangladesh for a 9 months period during the income year 2016 – 2017.
 - (a) Resident
 - (b) Non – resident Bangladeshi
 - (c) Non – resident foreigner

Identify the following statements as either true (T) or false (F):

1. Residential status will not depend on the citizenship of the assessee.
2. Income year can be same as assessment year.
3. If an individual fails to stay 182 days in the income year, he will be considered as non resident.
4. Income accrued or arose outside Bangladesh is taxable for a non resident.
5. Residential status is determined for each income year.

T	F
T	F
T	F
T	F
T	F

Discussion Questions:

- Question 3 – 1:** Define Income Year and explain how to determine income year under different circumstances stated in Section – 2(35) of the ITO, 1984?
- Question 3 – 2:** Define Assessment Year and explain under what circumstances assessment year can be same as income year?
- Question 3 – 3:** State the importance of determining income year and assessment year.
- Question 3 – 4:** Define Assessee according to Section – 2(7) of the ITO, 1984.
- Question 3 – 5:** Classify assessee based on the residential status and explain why this classification is important in income tax determination?
- Question 3 – 6:** Explain the rules to determine the residential status of an individual and also of a company?
- Question 3 – 7:** **“Income tax varies according to the residential status of an assessee”** – explain.
- Question 3 – 8:** Write short note on:
- (a) Income Year
 - (b) Assessment Year
 - (c) Assessee
 - (d) Residential status of an assessee

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Answers:

Multiple choice questions		True/False
1. c	6. b	1. T
2. d	7. a	2. T
3. d	8. c	3. F
4. d	9. a	4. F
5. a	10. a	5. T

Self review 3 – 1:

Income year is the period for which total income is calculated. Generally for the bank, insurance or financial institution Income year consists of a period covering January to December and for other taxpayers it is July to June.

In the case of a business newly set up in a financial year, the period of income year begins with the date of the setting up of the business and ends with the 30th day of June following the date of setting up of such business.

Self review 3 – 2:

	Income year	Assessment year
a.	2016-17	2017-18
b.	2016-17	2017-18
c.	2016-17	2016-17

Self review 3 – 3:

Characteristics of residential status:

1. Residential status may differ from year to year
2. Residential status will not depend on the citizenship of the assessee

Residential Status of Company: A Bangladeshi company or any other company, the control and management of whose affairs are situated wholly in Bangladesh in that year will be considered as resident. If the control and management of a company is situated partly or wholly outside Bangladesh, it will be considered as non-resident.

Tax rates: The average tax rate applicable for a resident assessee since tax is calculated using different tax rates (such as 10%, 15%, 20%, 25% & 30%) for a resident. But a non-resident has to pay tax at maximum rate i.e. @ 30%.